◆ Lester Thurow on Why Fairness is Important

◆ Sam Donaldson on Ronnie and Nancy

The Washington Monthly

NOVEMBER 1985 /$2.50

How to Stop Libel Suits and Still Protect Individual Reputation

Life and Death in the Emergency Room

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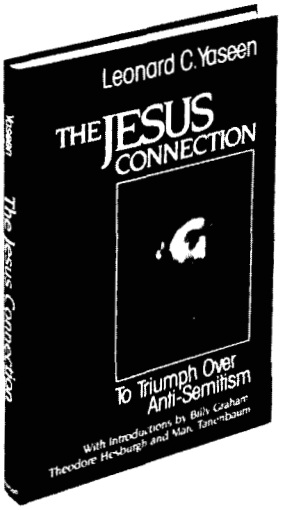

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Leonard C. Yaseen

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LETTERS

Salary envy

In September's "Tilting at Windmills" Peters was shocked to discover that some of the U.S. employees of the IMF and the World Bank "make between $70,000 and $149,000" a year. Since he has frequently complained of the inadequate remuneration which characterizes his own (some would say deservedly) low-paid employment, his indignation is at least understandable. However, he fails to note that most of the people who arouse his splenetic envy are doctorate-level economists for whom that salary range would be considered low to average in the private business sector of any major country.

IMF and the World Bank are international organizations dealing with the economies of the caliber required by the esoteric and rigorous demands of the work they do. Peters' perspective might be vastly improved if he were to peruse the employment sections of some British, French, or German newspapers and consider the salaries and perks offered there for people of similar qualifications. Should international organizations offer U.S. citizens less than they have to pay to attract qualified foreign employees?

PAUL N. NASH
Arlington, Virginia

For editors' comments see "Tilting at Windmills" p.8.

Marielistas defended

As a regular reader of your magazine, I was distressed to read Charles Peters's ["Tilting at Windmills"] item on the Mariel Cuban case in your September issue. It was particularly surprising in view of the fact that Peters is usually one to ask for deeper understandings of issues which should not be framed in black and white (as he does so carefully in the very next item on NOW's abortion workshops).

Peters recklessly refers to the "2,500 Marielistas who have been committing mayhem in this country" and suggests that had we been "prudent enough to hold our tongue" on the Radio Marti broadcast we would have "rid ourselves of the murderous lunatics from Mariel."

While there is no question that among the Mariel refugees were numerous Cuban criminals, there were innocent people as well who had come to this country at the invitation of President Carter. Many innocent men were sent to the federal penitentiary in Atlanta not long after landing in Key West because they were told that the American government would congratulate even petty crimes against a communist regime. They admitted their crimes and languished in jail for years waiting for the disposition of their cases. Some of the cases are hardly the work of "murderous lunatics": One man was accused of stealing a loaf of bread. Another was guilty of stealing a kiss from a grocery cashier.

Still, the Justice Department since 1980 hasn't wanted to bother with processing the Cubans. U.S. District Judge Marvin Shoob then ordered review boards set up to evaluate the Cuban cases in the hope that the criminals might be separated from the innocent. Many refugees were released. Sponsors were found to help integrate the Cubans into the American community. And, the records of the Mariel parolees have been quite good. Only a handful of the hundreds released were ever reported to have gotten into trouble.

M. S. PARADIES
Santa Monica, California

One solution for poverty

In response to the Charles Murray/Ken Auletta dialogue, "Saving the Underclass" [September], I believe an answer acceptable to liberals and conservatives lies with a policy never mentioned by either: simple economic control.

Murray seems to be saying that the inner-city poor have been lulled into complacent dependency by social programs that do little more than assuage liberal con-

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sciences and maintain a status quo of poverty. He wants to motivate people by torpedoing the ship of public largesse and forcing passengers to sink or swim.

Unfortunately, his plan offers no more reward down the road for those who manage to tread water than a job sweeping floors. The Horatio Alger story, while it has applied in rare cases to America's entrenched urban poor, remains closed off to those people as a rule because of the underlying assumption by our society as a whole that they are not allowed to achieve past a certain point.

Why not take Murray's idea a step further? Declare inner-city areas to be enterprise zones as the conservatives argue, but place them under the jurisdiction of neighborhood economic development corporations, with a controlling vote on their boards held by directors meeting a strict residency requirement, say, 10 years in the community.

Next, give each development corporation eminent domain powers and the authority to raise capital in the financial markets, albeit with built-in checks against abuse. Finally, provide a one-time initial capitalization—a combination of local, state and federal funding—and *then* let the community as a whole sink or swim.

As a sweetener, Washington could dispense the same tax incentives to corporations and developers willing to do joint venture business with these economic development entities. Only this time, development would be on the community's terms, with guarantees of key employment and training as part of the package. It could also lead to requirements by inner-city residents that would lead to innovative affordable housing designs or industrial plant processes that benefit workers and employers.

Such a program would give a neighborhood's best and brightest a reason to stay on and not flee the area as quickly as it takes ink to dry on a business degree. It would likely also draw a stampede of corporations and academics in a consulting capacity to what they see as a huge untapped market for their services. Third World countries like to remind us that as they undergo political upheaval they will remember their friends when the smoke clears. Why should Brazil get a better deal than Roxbury? It certainly hasn't shown any greater fiscal responsibility.

NIELS ERCH
San Francisco, California

Kirkpatrick revealed

As a student who was forced to muddle through the contrived intricacies of political science courses in the late sixties, I greatly enjoyed Steven Waldman's article, "Put the Politics Back into Political Science," in your September issue.

However, I was surprised that no mention was made of Evron Kirkpatrick's long tenure as director of the American Political Science Association. Surely, in such a long critique of the APSA's role in creating elaborate windmills of unrealistic jargon, which richly deserve to be tilted at, the importance of Jeane Kirkpatrick's spouse (mentor to the only widely-acclaimed "intellectual" yet to serve in Ronald Reagan's cabinet) deserves acknowledgement?

HAL DORAN
Toronto, Ontario

After reading *The Washington Monthly* for 15 years, I've come to appreciate its reliability and consistency. You can usually count on it for both enterprising journalism and anti-intellectualism. The September issue disappointed on the former but came through on the latter in Steven Waldman's diatribe against political science ["Put the Politics Back into Political Science"].

The Waldman essay was typical of the *Monthly*'s formula for putting down the social sciences: a sprinkling of ad hominem arguments, a few derisive code words ("scientistic" and "modeling") and voila, you've made the case against the pointy-headed academics again. George Wallace did the same sort of thing years ago with less grace but equal conviction.

Waldman reveals more about himself and the unfortunate journalistic prejudice against theory and evidence than he does about the shortcomings of political science. Of course there is some useless and even shoddy research that finds its way into the political science literature. One can say the same about journalism.

ARNOLD H. ISMACH
Dean, School of Journalism
University of Oregon
Eugene, Oregon

Tax terrorism

Your article on the IRS backlog ["Refund? What Refund?" Paul M. Barrett, September] was interesting, but you didn't address the question of computer break-ins. Is it possible that tax protesters have planted some worms or bombs in IRS computers?

TOM LEWIS
Albany, New York

Better socialist than hungry

Re: Joseph Nocera's "Making Capitalism Moral" [September]: with some so-called neoliberals, there is the danger of missing the truly insidious intent in the midst of seemingly reasonable discourse. Nocera gets through his article almost without a revealing flaw. But on page 44 we see the truth revealed at last: "Yes, the unemployed [of Europe] don't starve, but that doesn't mean they don't go to their graves feeling just as empty as any unemployed person in America."

Good grief—better starved than fed? Death from intellectual malnutrition? Terminal ennui? Apparently, the disease of "Eurosocialism" is so awful, the

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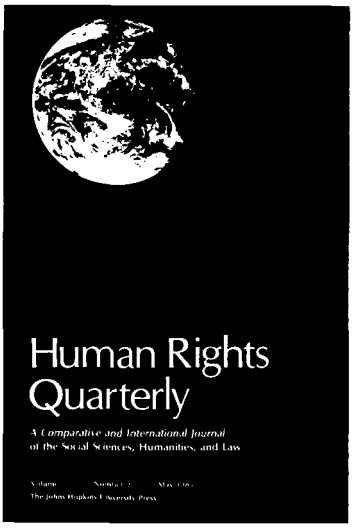

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thought of a full belly so frightful, that we should allow the impoverished or unemployed to starve, rather than force them to endure the horror of, egad, foodstamps? This is the mentality of destroying villages to save them. Apparently the neoliberal flirtation with the more conventional right-wing philosophies has now extended to a belief that the poor and the rich have an equal right to starve to death under a bridge.

Although I read your magazine with interest (and, in fact, find many areas of agreement), neoliberalism seems often to believe that, in a bank robbery, the bank is at fault for being there—no bank, no bank robber. Disestablishing the role of government (no government, no problematic government programs) is equally specious. Getting into bed with the Reaganites and other true believers such as Charles Murray, who can accept that the answer to everything is that their mistakes will splatter no more people against the pavement, simply ensures more suffering. Instead of forsaking decades of positive social progress, we should become intent on reducing the splatters on the pavement in a constructive fashion.

FRED FACHET
Warrenville, Illinois

Turncoats at dinner

May I point out a significant omission in your piece, "Reporters: The New Washington Elite," [Charlotte Hays and Jonathan Rowe, July/August]? The authors should have consulted the guest list at state dinners sponsored by Ronald Reagan; they would have found the names of a few journalists whom Reagan admires for ideological reasons. Interestingly, many of those who have accepted Reagan's invitations—Morton Kondracke and Charles Krauthammer, for example—are former doctrinaire liberals who are now cozying up to the neoconservatives. What their becoming involved in such social occasions does to their objectivity in reporting needs no comment.

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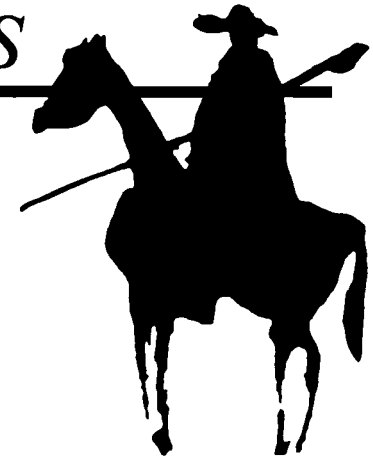
TILTING AT WINDMILLS



You may have missed a revealing sentence that was buried in a long newspaper story about the administration's tax revision plan:

"Reagan's first reaction upon seeing the [tax reform] plan was, sources said, to question why doctors couldn't keep their tax deduction for country club dues, since they use club contacts to obtain patients."...

"Why," asks Elizabeth Dole, "are truckers hauling peanuts 'roasted and salted in the shell' required to file rates with the Interstate Commerce Commission, while those carrying peanuts 'shelled, salted, not roasted or otherwise' are exempt?"

"Why," the secretary of transportation continues, "are raisins coated with honey, cinnamon, or sugar of no interest to the ICC while rates for chocolate-coated raisins must be recorded in Washington?" And why, she asks, "is a rate required for Jiffy Pop popcorn while Orville Redenbacher is exempt?"

She is right, these are absurd regulations, the kind that should be eliminated. But, as Kitry Krause points out in her article in this issue, economic deregulation must be accompanied by increased vigilance on safety matters. There is enough evidence already in on trucking deregulation to show that opening up the trucking business to numerous new carriers heightens the risk of accidents. This doesn't mean there shouldn't be more competition. What it means is that we need more safety regulation....

We're all for entrepreneurship, but physicians are becoming involved in a dangerous form of it. Increasingly, they are acquiring financial interests in diagnostic clinics, walk-in surgery centers, dialysis units, CAT scanners, and other costly medical equipment. They are tempted to steer their patients to use these facilities. Even the most conscientious doctor is under pressure from his partners in these ventures to produce business. Similarly, physicians who own hospitals are under pressure to keep the beds filled. Often those pressures mean the wrong—or unnecessary—treatment. Their relationship with drug companies poses another ethical problem for doctors. From the free samples to paid participation in "symposia" at various exotic locations, these companies

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bribe doctors to use their products.

Recently the editor of *The New England Journal of Medicine*, Dr. Arnold S. Relman, wrote:

"We cannot expect to take any practical steps in defense of our professionalism until we publicly agree that physicians serve their patients' best interests when they divorce themselves from financial interests in the medical market place... Physicians are ethically bound to place the medical needs of their patients before their own financial interests."...

Doctors are also coming under long-overdue attack for their incompetence. A recent article in *The New York Times* began:

"After decades of little action, the federal government, industry, and organized medicine have begun a new attack on the problem of medical malpractice and incompetence." *The Washington Post* ran a long article entitled "When Doctors Are Shockingly Bad." And *USA Today* ran a chart showing how doctor discipline varies by state. The shocker of this chart was its revelation that in the year it covered—1983—ten states reported no disciplinary proceedings against doctors at all....

Of course, on this score, lawyers are little better than physicians. Take the case of an attorney named Thomas Miles Brunwin whose story was recently reported by the *Los Angeles Times* in an article about the indulgence the California bar displayed in dealing with crooked or incompetent lawyers:

"Margaret and Wallace Shaffer, for instance, had paid him $1,500 to sue a title insurance company. By the time they discovered that Brunwin never filed the suit, the statute of limitations had expired.

"Brian and Norma Chambers advanced him $10,000 to defend their out-of-state drug charge, Brunwin kept the fee even though the charge was dropped less than two weeks after he was hired."

Another couple paid Brunwin $1,600 to file a wrongful death action against a hospital. Brunwin filed the case but several years later it was dismissed because he had not pursued it. The couple found out about the dismissal only because the hospital sued them for its attorney's fees.

"Brunwin's case is rare," the *Times* concluded, "but not because he stole, lied or cheated—it is unusual only because he got the ultimate penalty—disbarment. And that came only after a private warning in 1980 and 18 months' probation in 1983 for similar conduct going back as far as 1974."...

Her readers don't pick up hitchhikers was the essential message of a recent column by Abigail Van Buren. I don't either. And that is a great loss. I remember hitchhiking home while I was in the Army. I did it regularly and met a lot of nice people that way. It was an act of kindness that made the day seem better. This was especially so if you were standing out in the rain. It was an act made possible by a sense that we all belonged to a community in which there was a mutual trust. It's bad that we have lost that feeling. It is something we should work to restore....

"Cable is bringing more than just television to the backwoods," reports *The Washington Times* story, dateline Katy, West Virginia, as evidenced by the sexually explicit note recently passed from one second-grader to another at the local elementary school.

When asked about the note, the little girl involved explained that she had been watching dirty movies on cable....

I have long been aware that our brethren of the bar do not suffer financial deprivation, but even I was surprised by this ad from *The National Law Journal* directed at potential advertisers:

WHAT'S YOUR INCOME?
If It's $228,000... And You Read *The National Law Journal*—It's Just Average.

One way the fellows are making their $228,000 is by litigation against the government, as these headlines indicate:

Suing Uncle Sam Becomes Growth Industry *(The Washington Post);* Liability Insurance Cost Is Soaring For Localities *(The New York Times).*

My favorite is a suit by a Takoma Park, Maryland, couple against the Maryland Department of Natural Resources. The couple, Alva and Carlos Gonzales, base

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their suit on the fact that Mrs. Gonzales was bitten by a snake while visiting a state park in a mountainous rural area of the state. They contend that the Department of Natural Resources failed to warn Mrs. Gonzales of the presence of snakes in the park....

Another example of legal inanity in Maryland was averted by the state's supreme court, which last month overturned an appeals court decision that would have freed a murderer of a ten-year-old girl solely because the words "murder" and "malice aforethought" were missing from the indictment....

It may be hard for you to believe but this country can build weapons that work. I was reminded of this by the death last summer of Edgar Schmued, who was the designer of the P-51, the legendary Mustang fighter of World War II. It was the first American plane that could outfight the German Messerschmidt, and it didn't take years of delay, cost overruns, and change orders to build. In fact, one of Schmued's associates recalls:

"It was built in 120 days. Actually, it was built in 100 days, but we had to wait for an engine."...

The Committee on Executive, Legislative, and Judicial Salaries says that members of Congress, federal judges, and other top officials are "critically underpaid." I disagree. I agree with Ralph Nader who says, "I don't believe public servants should be paid more than three times the median income in this country. Otherwise they get too distant from the people they represent. They become part of the "limousine crowd." The median family income is $24,000. Cabinet officers get $86,000, federal judges from $76,000 to $104,000, and congressmen $75,000.

My own salary is $20,000. I have never complained about it as Paul Nash claims in our letters column this month. On the other hand, Mr. Nash may be right that I'm envious of the higher salaries received by others. One never can be sure of one's purity of motive in matters like these, but what I think I'm trying to say is that I'm grateful to have an interesting job in which it is possible for me to serve the causes I believe in. Many government employees have such jobs, too. I think they should feel fortunate. Too often it seems to me they fall victim to the same greed that is common in the rest of our society. As Paul Simon, the senator from Illinois, told Robert Pear of *The New York Times*:

"The weakest player on the Chicago Bulls basketball team, who spends most of the time on the bench, is paid substantially more than the person who makes the country's laws."

Senator Simon, there is an intellectual and moral challenge to making this country's laws that I hope, upon reflection, you will realize is considerably more exciting than sitting on the Chicago Bulls bench. Man, you're at the center of the arena, you're having fun, you sweat to get your seat, you'll sweat to keep it, cease this self-pity....

My first exposure to people who worked for the joy of what they were doing came in summer stock in the late forties and early fifties. I started as an assistant stage manager working for room and board. The "room" was a bowling alley in the basement of the theater. My bed stretched across the two lanes. I never made more than $55 a week. Most of the people I worked with made the same, but they didn't care. They loved their work. I saw the same attitude in the people who worked as Kennedy volunteers in the 1960 campaign. Then I saw it among the thousands of young people I got to know while working for the Peace Corps in the sixties. An indifference to high or even ordinary salaries has been the basis of this magazine's survival. I don't deny that it would be nice to have more money. Nor do I deny that indifference to money may have moral problems of its own, especially in regard to one's duty to give financial help to family and friends. But I do say indifference to money can free you to do work that satisfies your conscience and your heart....

Among the executive amenities at the Federal Reserve Board are five dining rooms, two squash courts, and a weight room. The board also has an art director to coordinate its art exhibits....

Pete Stark, the Congressman from California we criticized last month for

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throwing a fund-raising party for his son may atone for his sin. He says he is going to introduce a bill to deny tax deductions for conventions held outside the United States. This is the first step toward reform. The next is to forbid deductions for any convention that is not solely devoted to business purposes....

Russell Long, who is retiring from the U.S. Senate this year, has refunded $360,543 in unused campaign funds to his contributers. You may not think that's unusual. But many of Long's former colleagues simply transferred their campaign funds to their private bank accounts when they retired. Long could have done the same and deserves recognition for not having done so....

There are lots of lawsuits pending against tobacco companies on behalf of smokers who have cancer or on behalf of the families of smokers who have been killed by cigarettes. I have a suggestion for the lawyers representing these plaintiffs. Why not also sue the newspapers and the magazines that publish the cigarette ads that make smoking seem glamorous, and the advertising agencies that create the ads? And don't sue just the publishing and advertising companies, go after the individual executives who solicit and accept the tobacco companies' business. If these people saw their own pocketbooks threatened more by the just claims of the dead and dying than they are enriched by the revenue from cigarette advertising, they would stop creating and publishing those ads.

I'm sure this proposal will strike a lot of people as extreme, even shocking. But, to me, that is simply a comment on how accustomed members of our professional and ownership classes have become to excluding themselves from moral responsibility for their actions. There is, in fact, a moral choice made by each individual who is involved in the creation and publication of these ads. The lower he is on his organization totem pole, the more he deserves our forgiveness—after all, he may need the job to care for his family. But the heads of these organizations are usually rich people who have no such justification for the immoral choices they make....

For those of you who live in Maryland and assume that the meetings of the State Board of Education are devoted to thoughtful examination of important issues involving the schooling of your children, I have a copy of the minutes of the board meeting on June 25 of this year. It concerned an appeal by Terri Everett against the Kent County Board of Education. The issue was whether she was required to attend a reading workshop on December 14, 1983, and if so, whether her travel time to and from the workshop (a total of four hours) was compensable....

'Jersey Struggling to Cut Vehicle Registration Backlog Linked To Computer' was the headline last month. The state has a backlog of more than 1.4 million motor vehicle registration transactions caused by problems with its new computer system. The computer woes of the IRS have been in the news for the last year. We all know of organizations where computers have malfunctioned, sometimes to the point of disastrously fouling up records. I suspect there is a national scandal in this story. How many organizations have bought computers they don't need or that are wrong for them, or that were misprogrammed. Ours has been a headache from the day we got the thing. The computer revolution must have helped someone besides the IBMs that manufacture them, but my own experience indicates that the victims outnumber the beneficiaries.

Certainly, as customers of organizations that bill by computer, we all know we are worse off. Telephone calls and letters—no matter how desperate in tone, no matter how thorough in their explanation of all the relevant information—seldom rectify computer error. How many of us have finally paid something we don't owe simply because we no longer have the time or energy to fight our faceless enemy?....

Our booby prize for bad education reporting is split this month between Richard Valeriani of NBC Nightly News and Carry Abrams of the *Los Angeles Times*. Valeriani described the hiring of college graduates without education credits as "a so-called alternate" to hiring qualified teachers. Abrams wrote a long article about these graduates without even hinting that it is precisely the

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group that the best private schools hire from. What they care about and what the public schools should care about is subject knowledge and teaching aptitude, not whether the applicant has proved he can endure boring and meaningless education courses. But now we must add NBC News and the *Times* to CBS and McNeil-Leherer to the list of news sources who have failed to let the public in on this little secret....

Administrators at Harvard have been censoring a student-run publication called the *CUE Guide* that reports student opinions of faculty performance. For example, a student description of one faculty member as "condescending and arrogant" was edited to describe him as "somewhat distant and firm in his opinions." I don't contend that students are right all the time in their evaluation of faculty, but my experience in college and high school was that the student grapevine was the best way of finding out about good and bad teachers.

Teachers who object to student evaluation usually argue that students only like teachers who are easy. My memory is the opposite. We only respected the teachers who demanded our best. In our lazy moments, we might take the easy courses but our esteem was reserved for the teachers who made us work.

So I think the Harvard censors are all wet. We should have more student evaluation not less. In public high schools, where it is not listened to at all now, it should be one (although certainly not in itself decisive) of the factors in determining the merit pay increases that I hope are the wave of the future instead of the across-the-board raises that are the rule and that reward good and bad teachers alike....

Growing numbers of women are giving up law careers, according to an article by Judy Klemesrud in *The New York Times*. "It's just not worth it being miserable for the money," said one. "Going to law school became the 'in' thing to do in the 70's," said another, adding "they had lots of reasons for going to law school...unfortunately, liking the law was not always one of the reasons."

Many of the women did not like the combination of long hours and boring work that is the fate of most young lawyers. Nor did the adversarial nature of the work appeal to them. One said:

"I just don't have the personality for the adversarial part of it. I'm basically easygoing and don't like to argue—especially over the petty nonsense that lawyers argue over. I guess that means I shouldn't have been a lawyer."

She's right. What happened was the worst part of the women's movement, women imitating men instead of trying to free them from the macho foolishness that has been at the root of so many of our problems....

We ordinarily applaud the appointment of talented outsiders as ambassadors and have never shared the foreign service's belief that its members should have a monopoly on such positions. But we do confess to slight misgivings about the background of President Reagan's choice as ambassador to Jamaica, Michael Sortirhos. He has been the head of Ariston Interior Designers, Inc.

This reminds me of an important point that should be made about non-career ambassadors. They would be better prepared for their posts if we had more in-and-out movement by non-career people at the middle and lower levels of the foreign service. At the present time and for a long time past, there has been practically none. This would give able people who don't want to spend a lifetime enmeshed in the bureaucratic machinery of the State Department a chance to come in and serve from time to time, learn where the levers are, and be prepared to hit the ground running in the event they are ever appointed ambassador....

"Want to know how to get someone to tell you his innermost secrets?" This was the tantalizing lead sentence of an article by David Johnson of the *Los Angeles Times* about a professional fundraiser named Chuck Lawson. Lawson's answer to the question:

"It's easy....Just ask someone to donate $100,000 to charity."

I repeatedly encountered this phenomenon back in the late sixties when I was raising the money to start the

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Monthly. People feel guilty when they refuse to help, so they begin to justify the refusal by telling you their problems. It's not long before you've heard intimate details about their divorce they haven't even told their psychiatrist. You may come away empty-handed, but you certainly won't be bored....

New York is going to give the police corps idea a try. This is a program designed to attract bright college graduates to police work by giving them help with their college expenses in return for their agreement to serve in the police for a period of years. Adam Walinsky, the former Robert Kennedy aide who was the originator of the idea, feels the New York plan is not extensive enough—that it offers too little help with college—$1,500 per year for two years against Walinsky's free tuition for four years—and demands too little in service—two years against Walinsky's four.

Certainly, the cost of college is a major problem today. The need to pay back high-interest short- or medium-term loans is forcing many students to leave school early or to seek careers where they can make money fast.

Such students might well respond enthusiastically to a program that offered education in return for service. But my own instinct is to keep education and service separate.

As I've indicated in these pages before, I believe college should be paid for by long-term loans by the federal government that would be repayable through an added assessment on each year's income tax. If the term of the loan is 30 years or so, the amount due each year should be reasonable. In contrast to many other federal loans, it would be collectible because it would be tied to the income tax. In the past, the IRS has resisted proposals that the tax system be used for purposes like this. But it recently changed its position. According to *The Washington Post*, "The Internal Revenue Service will tap the tax refunds of as many as 1.5 million Americans next year to help the federal government collect overdue debts for small business, housing, and education loans." It's just a small step to move from taking part of a refund to adding an assessment to the tax.

As for service, I don't think it should be linked to paying for education, because I don't think we should pay for service and I think everyone should be obligated to serve without regard to the amount of education they have.

People should serve because they owe it to the community. We need their service, because we aren't going to be able to afford to pay the regular salaries (and pensions) of all the people we need to staff our military, our police and fire departments, and our hospitals and nursing homes. They could also serve as part of a new Civilian Conservation Corps dedicated to cleaning up our environment. We need hundreds of thousands of people for these tasks. And if we give them only room and board plus a small amount of spending money, we can afford it....

—*Charles Peters*

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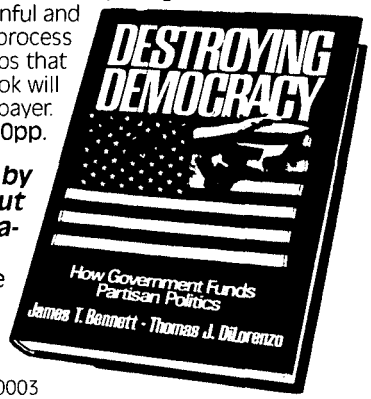

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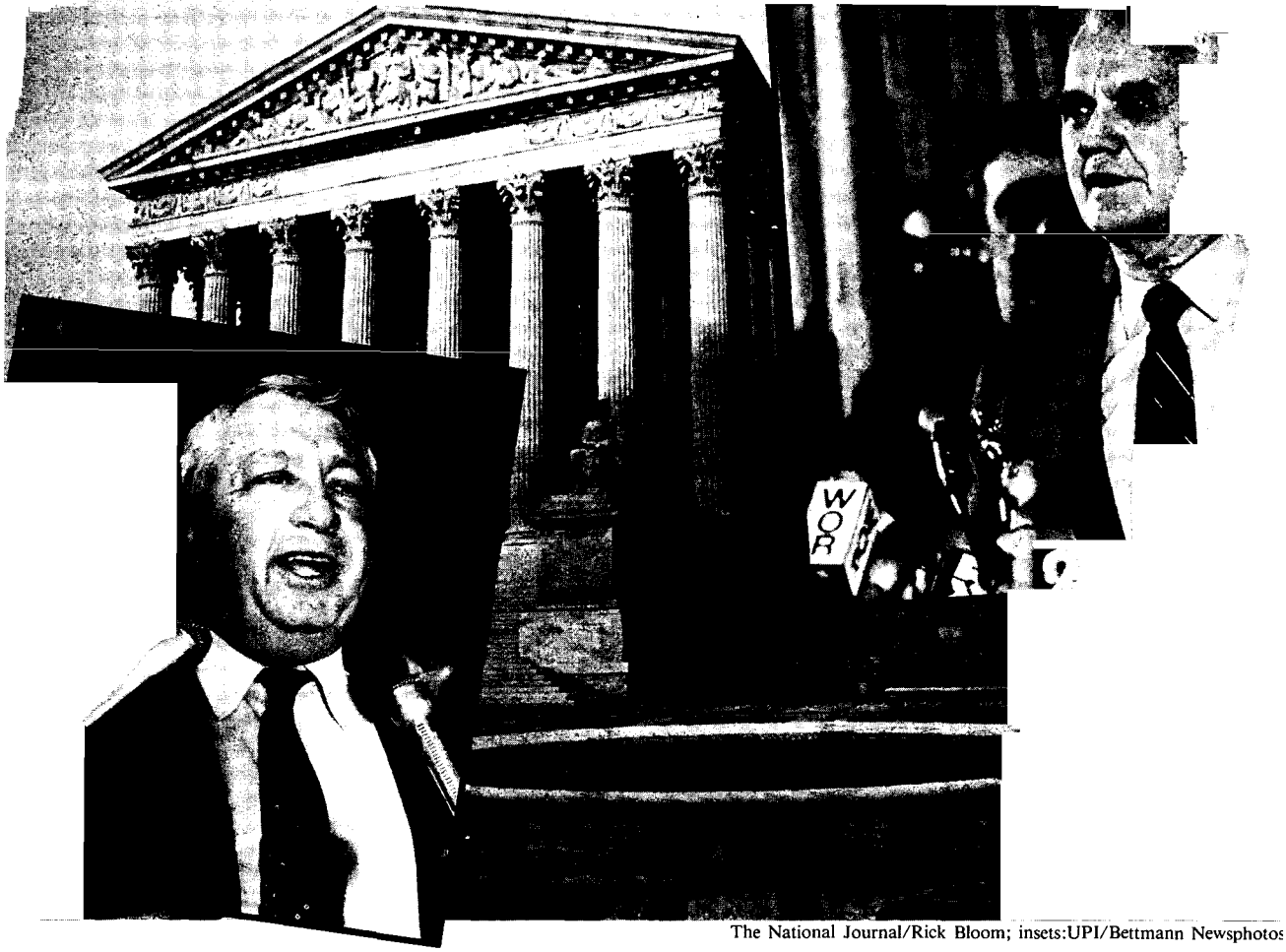

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How to Stop Libel Suits and Still Protect Individual Reputation

by Robert F. Nagel

When a three-judge panel of the U.S. Court of Appeals for the District of Columbia last spring upheld a jury's determination that *The Washington Post* had libeled oil company executive William Tavoulareas, the press responded with fury and dismay. A.M. Rosenthal, executive editor of *The New York Times*, called the decision "garbage" and said his paper "will basically ignore it." Not to be outdone, *Times* columnist James Reston paired Judge George E. MacKinnon, who wrote the decision, with V.I. Lenin, who wrote that governments should no more allow opposition by criticism than by lethal weapons. Striking a loftier and more familiar note, Haynes Johnson, a columnist for the *Post*, wrote that the implications of the decision "are

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a threat to the philosophical assumptions and constitutional guarantees underlying the First Amendment."

The response to the Tavoulareas case, which is under review by the full D.C. federal appeals court, was not an isolated overreaction. This year the usual drumbeat of complaining about threats to the press's freedom has risen to a crescendo. Martin Farbus, a New York attorney and former associate director of the American Civil Liberties Union, writing in *The Nation*, proclaimed that because of the "recent flood" of libel judgments, "free speech has been curtailed." After the jury denied Ariel Sharon any monetary award in his suit against *Time*, the magazine alluded darkly to "the pernicious effect libel cases such as this are having on the First Amendment rights of the American press." There is talk of public "attacks" on the press, and *Time* perceived an "open season on freedom of expression."

Is there a basis for worrying about freedom of speech? Major libel insurance companies report that the number of libel suits filed has increased in recent years, but not drastically. What has emerged is a pattern of juries deciding more frequently against media defendants in a string of well publicized, high stakes cases. The visibility and drama of these confrontations increases the perception of a public attack and thus might indeed be "chilling" journalistic initiative. Before 1980 there had been only one libel award over $1 million. Since then, there have been more than 20 such awards, including Carol Burnett's $1.6 million recovery from the *National Enquirer* and a $9.2 million judgment against the diminutive *Alton Telegraph*. One study conducted by the Libel Defense Resource Center indicates that 90 percent of libel trials held in the last five years have resulted in jury verdicts going against the press.

Journalists' fears of hostile juries therefore have a substantial basis. A recent national opinion survey conducted by the American Society of Newspaper Editors found that three-fourths of American adults doubt the credibility of newspapers and a fifth are "deeply" distrustful. Common complaints revealed by the survey are that the press doesn't "worry about hurting people" and that it "takes advantage of victims of circumstance." The question is not whether the press is under attack, but why the attack is occurring now.

It was more than 20 years ago, in *New York Times v. Sullivan*, that the Supreme Court sharply limited traditional state libel laws. The Court held that to establish libel and collect damages, "public officials" must prove not only that a story was false and defamatory but also that it was printed with knowledge of its falsity, or with "reckless disregard" for the truth. These special protections, which were later expanded to make it difficult even for private individuals to protect their reputations, were designed, in the Court's words, to assure that "debate on public issues should be uninhibited, robust, and wide-open." It is after two decades of sustained judicial enforcement and enlargement of the protections created in *Sullivan* that many perceive a resurgence of the "pall of timidity and fear" that the Court intended to prevent.

A growing number of journalists and civil libertarians argue that the legal protections first created by *Sullivan* are too weak. Some criticize the decision for permitting inquiry into journalists' states of mind, and others note that its protections foreclose many adverse verdicts but not the threat of litigation itself. The American Civil Liberties Union argues that on matters of social or public concern, public figures should not be permitted to recover even if falsehoods are printed knowingly or recklessly.

Before urging judges to build the legal walls even higher, however, we should consider a different explanation for the puzzling timing of the current sense of siege. Although in some important ways *Sullivan* did invigorate public debate, it is also possible that journalists' tendency to exaggerate the importance of legal protections may be having the perverse result of undermining free speech values. Understanding this possibility requires seeing how judicial decisions such as *Sullivan* gradually come to shape people's attitudes, sometimes with unexpected consequences.

Sedition

Despite popular veneration for landmark cases, the Supreme Court cannot simply decree that a constitutional value such as free speech will be adequately protected. Like other public institutions, the Court's decisions are tentative and ambiguous guesses about how laudable objectives should be achieved. The meaning of important opinions is not fully revealed in the Court's written words. The meaning develops slowly, as the public and its institutions try to understand and react to the Court's complicated pronouncements.

The *Sullivan* case was brought by the police commissioner of Montgomery, Alabama during the height of southern resistance to the civil rights

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movement. The commissioner sued *The New York Times* over a political advertisement that in florid and sometimes inaccurate terms complained of police harassment of black protesters, including Dr. Martin Luther King, Jr. The advertisement never mentioned the plaintiff, Sullivan, although it did refer to "police and Southern violators." On this thin reed, Sullivan claimed he had been personally libeled. A state court awarded him $500,000 in damages.

The most important part of the Supreme Court's reversal of the Alabama court's opinion emphasized the need to protect "the citizen-critic of government." Writing for the Court, Justice William Brennan compared Alabama's libel laws to the Sedition Act of 1798, which had made it a crime to publish false writings "against the government of the United States." Noting that fines paid under the Sedition Act had been repaid by an act of Congress and that President Jefferson had pardoned those convicted, the Court concluded that the unconstitutionality of such statutes "has carried the day in the court of history."

Since the advertisement in the *Times* never mentioned Sullivan's name and could only tortuously have been thought to refer to him, the suit involved the equivalent of a fine imposed for criticism of the municipal government. At its core, then, *Sullivan* meant that citizens are free to be mistaken when criticizing their government and its policies. Today it seems natural to associate the First Amendment with libel cases. But *Sullivan* was the first occasion on which the Supreme Court made this connection.

A new shield

The decision, rejoiced Alexander Meiklejohn, the First Amendment theorist, was "an occasion for dancing in the streets." Professor Harry Kalven of the University of Chicago wrote that the opinion "may prove to be the best and most important [that the Supreme Court] has ever produced in the realm of free speech." Academics were thrilled at the prospect of a bold campaign by the Supreme Court to invigorate public debate.The excitement spread quickly to journalists. Whereas before *Sullivan* a news report was libelous in its treatment of a government official if it tended to injure him in his public capacity, suddenly journalists had a constitutional shield when they attacked officials. No longer could a careless factual error risk libel liability; the press merely had to avoid recklessness or knowing misstatement. Reporters felt free to probe more deeply, revealing important examples of bad governance—from Vietnam to Watergate. While Woodward and Bernstein turned the job of investigative reporter into the 20th century version of knighthood, *Sullivan* itself took on mythic proportions. To many, the decision came to stand for a promise of nearly total insulation from liability for writers.

Perhaps emboldened by the unaccustomed praise, the Court embarked on a 10-year expansion of *Sullivan*. The evidentiary burdens imposed on public officials were enlarged. The Court declared that "reckless disregard" for the truth required proof that the writer had in fact entertained "serious doubts as to the truth of his publication." Therefore the failure to investigate the accuracy of a story or the reputation of a source could not by themselves amount to "recklessness." One lower court determined that a reporter had not been reckless because the falsity of his article resulted from failing to check the contents of his own clipping file. Soon the restrictions were applied not only to public officials but to "public figures," which courts defined to include college football coaches, union officials, defeated candidates for public office, and just about anyone speaking out on public issues. Eventually, a court held that a spouse of a public figure was also a public figure, as were the children of Julius and Ethel Rosenberg. By 1974, *Sullivan* had been extended to provide some protections for defamatory statements about private individuals.

During this period, the kinds of defamatory materials protected also changed. No longer did *Sullivan* insulate only criticisms of government or of government officials; its protections extended far beyond the limits of political debate. Moreover, writers were not protected only in libel actions. *Life* magazine, for example, was protected from liability for its allegedly inaccurate story about events depicted in a newly opened play. The play, based on real life, was about a family who had been held hostage by three escaped convicts. Both the *Life* article and the play sensationalized the story by describing violent conduct and sexually abusive remarks directed at members of the family. The family, which had refused television appearances and had even moved to a different state to avoid publicity about the ordeal, sued for invasion of privacy. Asserting that the "guarantees for speech and press are not the preserve of political expression or comment on public affairs," the Court applied *Sullivan* protections to the *Life* article because it involved a "matter of public interest."

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In subsequent years, some of these extensions of *Sullivan* were modified by the more conservative Burger Court. Nevertheless, the overall record of the Court for two decades has been to enforce and expand *Sullivan*'s protections. This, no doubt, has made the press more secure about publishing important and provocative material. But it also has encouraged a dangerously exalted view of the press. For decades, judicial opinions have argued that the job of providing information is so significant that reputations and privacy may have to be sacrificed to it. The *Sullivan* decision itself repeatedly linked "self-censorship" to the destruction of democratic accountability. It suggested that all forms of criticism—even "sharp attacks," "exaggeration," "vilification" and "erroneous statements"—are essential to the preservation of "First Amendment freedoms" and "the security of the Republic." In short, in *Sullivan* and in many other decisions, the Court has legitimized the idea that the press, even when grossly irresponsible, is on a crucial mission.

No one doubts that a vigorous press is essential to democracy. The problem is that journalists, like everyone else, are only too eager to believe fervently in their own importance. Anyone with a crucial role in society naturally finds it difficult to be bothered with the normal human decencies. Lawyers, for example, who believe that their every adversarial maneuver is important to "the administration of justice," are able to browbeat witnesses and obscure the truth at trials.

Similarly, journalists poke microphones and blazing lights in the faces of distraught victims of disasters claiming that the public needs to know. A broadcaster, Phil Donahue, harbors a man accused of kidnapping a child and then does not tell the child's mother about the child's location with the excuse that a grave public issue, after all, needs airing. In defending Donahue's behavior, Bob Greene of *Newsday* explained in court testimony that journalists pledge confidentiality to those committing crimes when, in the reporter's opinion, "on a case by case basis, the information that they may be able to give is far more important to the public in our democratic society [than the nature of the criminal conduct]." Greene himself once observed 40 school students buying heroin and did not reveal the names or the identity of the pusher. The parents of those children might be forgiven some qualms about having journalists decide when our democracy needs information about public issues more than it needs information relevant to protecting victims or apprehending criminals.

Time magazine abundantly illustrated journalistic hubris during the Sharon trial. When it was found to have negligently and falsely impugned Sharon's character, *Time* responded by claiming that the jury did not understand the evidence and by describing its own inaccuracies as "minor." Apparently, those engaged in great enterprises make no apologies. When the trial was over and *Time* claimed to have "won," it nevertheless asserted that "the case should never have reached an American courtroom." Echoing—you guessed it—the Court in *Sullivan*, the magazine suggested that putting "journalists on the defensive in a courtroom [might result in a] dimmer light cast on critical issues."

Scorn

Journalists are wringing their hands because Americans do not seem to understand the importance of the fearless dissemination of information. But information is not the issue. Usually the public is eager to purchase information. And sometimes journalists are less than eager to disseminate it—for example, when the information is about their sources or editorial decisions. One reason the public is "attacking" the press in the nation's courtrooms may well be that many journalists seem to want to be responsible only to themselves. Even winning a lawsuit is too great an imposition because it involves answering to someone else. Libel trials have taken on the added status and ritualistic importance that attends a "constitutional case." They have become symbolic encounters where plaintiffs, and often juries, seek to reestablish the principle that the press is not a law unto itself.

Distrust of powerful news organizations that enjoy broad legal protection has intensified because the First Amendment has become increasingly foreign and unintelligible to everyone except lawyers. Until 1964 the general understanding, as manifested by the libel laws in every state and confirmed by the courts, was that the "freedom of speech" protected by the Constitution did not protect false and defamatory statements from civil liability. As the Court said in *Sullivan*, popular dissatisfaction with seditious libel laws indicated an additional understanding that freedom of speech provides a broader protection of criticism aimed at the government and public officials rather than private individuals. But judicial interpretations of the First Amendment quickly swept past this boundary. This headlong rush reflects a theory of the First Amendment that dismisses the public as ignorant and unsympathetic to free speech.

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Professor Thomas Emerson of the Yale Law School gave this condescension its most influential voice. He wrote that "Most men have a strong inclination for rational or irrational reasons to suppress opposition." Referring darkly to "public fear and hysteria" and to government censors with "excessive zeal" and "ulterior purposes," Emerson sometimes portrayed the public and their officials as the inevitable enemy of free speech. When in a less dismal mood, Emerson argued that the theory behind freedom of speech was "highly sophisticated" and that its "logic...may not be immediately apparent to untutored participants." The prevailing academic view was neatly expressed by another prominent civil libertarian, Ronald Dworkin, who dismissed the idea that the public might understand rights such as free speech as a "bizarre proposition."

Distrust of ordinary people's judgment on free speech issues is pervasive in the judiciary. Estimates are that three out of four decisions by juries to award damage in libel cases are overturned by judges. In one libel case in Colorado, a judge refused to read the First Amendment to the jury. The state's supreme court upheld his decision on the grounds that the words of the Constitution "could only have misled the jury."

As the reaction to the Sharon trial indicates, the press has allied itself with this scorn for the judgement of the ordinary people. *New York Times* columnist Anthony Lewis predicted, "The average person will say: isn't there something wrong with our system of justice if after a meticulous libel trial a man proves he was defamed, and the information was false, and he still loses?" A television journalist made the point more clearly: "What bothered me was that...it came down to the malice issue and [that] will focus attention on the fact that a story can be inaccurate and irresponsible and still not be libel." Why should it be worrisome that the Sharon trial focused attention on the constitutional rules that now protect the press? Isn't public understanding of such matters something the press should encourage? Not if, as Lewis implied, "the average person" is not capable of assessing the information. Apparently only judges and journalists can be trusted to understand the First Amendment.

This elitist view is itself a misunderstanding of the First Amendment. The theory behind freedom of speech is that, if given uncensored access to information, people can be trusted to control their government. Under this theory, ordinary people must be trusted to assess information about every public issue, from nuclear war to Federal Reserve policies. But under the strange version of freedom of speech reflected in modern reliance on judicial protection, the public is not trusted to understand free speech.

For all of its apparent hostility to the modern press, the American people have enjoyed a history of public debate as robust as any in the world. This history is rooted as much in popular support for courageous dissenters as in legal protections. For example, the Sedition Act of 1798 could not prevent criticism of the government, and, in fact, its unpopularity contributed to the election of Thomas Jefferson. The arrest of newspaper editors during the Civil War could not block vigorous reporting about the war because such arrests often increased circulation. After the Supreme Court upheld the conviction of Eugene Debs in 1919, the Mayor of Toledo refused to allow Socialists admission to city hall to hear a speech by Debs. Thousands of Debs followers stormed the building shouting, "To hell with the mayor." At times, of course, Americans have forgotten the value of free speech; the attempt in Alabama to quash criticism of racist authorities that led to *Sullivan* is but one such example. But rather than assuming that people will choose censorship over free expression, defenders of the First Amendment should appeal to the public's better instincts. Elitist distrust of the judgement of ordinary people will ultimately be self-fulfilling. The public can be trusted if it is appealed to and educated rather than avoided and disdained.

Consider, for example, the self-discipline of the jury in the Sharon case. The *Time* article that the jury found to be partially false described a meeting between Sharon and the family of Lebanese President-elect Bashir Gemayel, who had just been assassinated. *Time* reported that Sharon told the Gemayels that "he expected the Christian forces to go into the Palestinian refugee camps...[and] take revenge for the assassination." In the light of the subsequent killings of hundreds of civilians in two refugee camps, this was a horrific charge. The trial produced evidence that David Halevy, *Time*'s correspondent in Jerusalem, had initially written that Sharon "gave them the feeling" that he understood the need for revenge. The article, as revised by a writer in New York, however, had Sharon "discussing" the need for revenge. Halevy testified that "gave the feeling" could have included "a body movement," "silence," or "indifference." But when the report was read back to him, he had not objected to the substitution of the word "discussed" because he had not believed there was any difference between "gave the feeling" and "discussed." More impor-

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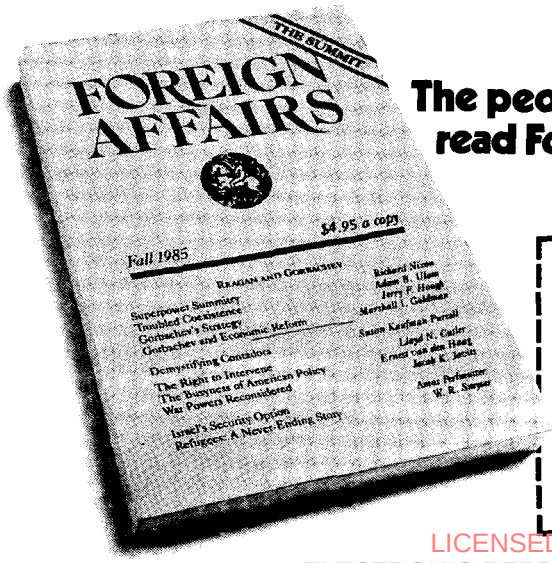

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tant, a secret Israeli report, "Appendix B," which Halevy had relied on as a source in his article, turned out to contain no mention of any discussion of revenge. Halevy had not seen Appendix B before filing his story. To make matters worse, Halevy had once been an adviser to Sharon's political rival, Shimon Peres, and during the trial made no secret of his hostility toward Sharon.

Professional journalists themselves were abashed by these revelations. Nevertheless, the jury dutifully followed the instructions of the court and distinguished between the normal meaning of "reckless" and its legal meaning. The jury concluded that the falsehoods, although defamatory and negligent, were not sufficiently intentional to justify a verdict for Sharon.

Juries, of course, are often not so scrupulous in protecting the legal rights of the press. This does not, however, necessarily indicate hostility toward basic free speech principles. After all, the broad legal protections now available to the press are often presented to the public as an affront to common understanding and common sense. Here is the advice Bruce Sanford, counsel to the Society of Professional Journalists, proffered in a recent *Wall Street Journal* op-ed article:

"Libel trials can be conducted correctly if judges...banish the word 'fairness' from the courtroom and instruct jurors to use the rules of libel law, rather than their sense of fair play."

Academics, judges, and journalists cannot help educate people about freedom of speech until they begin showing them some respect. A first step would be to reemphasize the core meaning of *New York Times v. Sullivan*. Those who criticize government or public officials need special protection from excessive damage awards. We tolerate certain types of defamation even when based on erroneous information, not because the press deserves the privilege of being negligent, but because we value criticism of authority so highly. As the Supreme Court noted in the 1964 decision, people who enter public life must be willing to absorb a healthy dose of heckling. But the extension of constitutional protections to areas far removed from political debate may have eroded public support for freedom of expression more than it protected it. Certainly those who propose building the legalistic fortifications higher should think again.

We should also begin exploring avenues to resolve libel questions involving public officials without relying so heavily on judicial decision making. The goal would be to reaffirm the value of journalistic accuracy while precluding the possibility of huge libel awards which inhibit ambitious reporting. For example, it might make sense to permit public officials and others willing to forego suing for monetary damages an option to sue simply for a court's declaration of the truth or falsity of the defamatory report. In such a simplified action, the jury would not consider the ambiguous issues of negligence or recklessness. A plaintiff would have an opportunity to repair his reputation without threatening a defendant publication with crippling financial loss. A publication in error would be publically embarrassed and unable to claim victory, as *Time* did after being found negligent and in error. As in many civil proceedings, the loser in such an action could be required to pay the winner's legal fees.

A news organization that is too poor to afford even legal fees in such cases should have the option of settling a libel case by publicly retracting false, defamatory statements, thus avoiding both monetary damages and trial expenses. Such proposals, which have been discussed by some First Amendment experts, would probably require action by state legislatures or Congress in an area of legal development traditionally left to the courts. But it is just this kind of involvement of the public and its institutions that we need. Open debate about the purposes and parameters of libel law, with an eye toward simplification and balance, would be healthy. Journalists might abandon some of the elevated rhetoric that has attended constitutional argument; they might explain in commonsense terms the inevitablility of error in the imperfect business of searching out official misconduct. The public could give expression to its legitimate concerns and might press reporters to find better ways to police themselves. And citizens—the prospective jurors—could participate indirectly in shaping libel law they understand.

The Constitution, including the First Amendment, is the people's document. It must evoke their loyalty and support. Constitutional protections must be kept somewhere within the reach of the public's sense of proportion and decency. If legal protections are designed and explained with due regard for the public's sense of fairness, the First Amendment and the press can gain the strongest protection available—the protection of popular support. Individuals would sue, not to establish a principle of journalistic accountability, but simply to repair personal harm. People would rally around, rather than attack, brave critics among the press. Juries would fulfill their proper function of protecting, not punishing, criticism of government policies. ■

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MEMO OF THE MONTH

4-10 AUGUST 1985 NO. 32-85 FOR OFFICIAL USE ONLY

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WEEKLY SUMMARY

OF AIRCRAFT MISHAPS

NAVY

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Things Falling Off Aircraft This Week

AIRCRAFT	ITEMS
A-4	Drop tank/Panel
A-6	Door/Fairing
A-7	Drogue
AV-8	Bomb/Chaff bundle
C-2	Panel
F-4	Pylon/Missile Launcher
F/A-18	Gun Mechanism/Drop tank
H-3	Sonobuoy/Window
H-46	Missile/Door
H-53	Fuel tank
P-3	Prop fairing/Antenna
T-34	Door
Total	20

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Photo: Maryland Institute for Emergency Medical Services Systems

LIFE AND DEATH IN THE EMERGENCY ROOM

by Paul Glastris

A young black man, shot in a housing project on Chicago's West Side, lies moaning on a table in the trauma unit of Cook County Hospital. The bullet cut a ragged path through his right thigh, shearing the femoral artery. Like water from a half-open tap, blood runs from the wound until a surgical resident, Dr. Lipov, leans heavily on the entry wound with a handful of gauze. The victim isn't enjoying the procedure—"Ma leg, man, you got to lay off ma leg," he pleads. But Lipov, well into his twenty-first consecutive hour on duty, is in no mood for complaints. At some point in his evening's adventure, the victim has fouled his trousers. The stench fills the air. Lipov considers what antibiotics he'll administer since the exit wound on the back of the thigh is awash in excrement.

The first of two articles

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At 4:30 in the morning on a Saturday in August, Cook County's trauma unit is no place for the faint-hearted. The bars have just closed, so it is a peak hour for gunshot wounds. The trauma team has treated about a dozen other seriously injured patients tonight; some of their blood still stains the floor. Though the staff is tired, this latest patient's condition is sufficiently urgent to give them a surge of adrenalin. They crowd around him, inspecting, probing, taking notes, voicing opinions. Then they draw blood, start I.V.s, clean what needs cleaning and determine that without prompt surgery, the man will lose his leg.

Though he probably doesn't know it, the patient is fortunate to have been brought to Cook County. The Dickensian grimness of this tax-supported institution—old gray walls, exposed pipes, crowds of poor people in the halls—doesn't inspire confidence. But ask a Chicago paramedic where he would want to be taken if he suffered a gunshot wound, and he'll probably say Cook County. Emergency medical personnel all over the country know of Cook County's excellent record. And the reasons for the hospital's success are simple.

Trauma is the umbrella term given to all forms of injury. The primary treatment for serious trauma is surgery. For this reason, the Cook County unit is set up to do immediate, often complicated operations. It has its own operating room and surgical specialists of every stripe available in the hospital ready to pitch in at any time. Wheel a seriously injured patient into most conventional operating rooms, and you usually get a Chinese fire drill: nurses dashing around looking for the right type blood and special equipment, interns trying to locate surgeons over the phone or rousting them from bed, bottlenecks in getting X-rays, CAT-scans, and lab work done. Such delays kill a surprising number of trauma patients who succumb to shock or a hemorrhage. Trauma surgeons speak of the "golden hour" immediately after the occurrence of an injury, when the statistical chances of saving a patient by sewing up his wounds are greatest. Wait much longer than an hour, and no matter how brilliant the surgery, the effects of shock will frequently kill the patient hours or perhaps days later.

The second reason for the success of the Cook County trauma unit is experience. The surgeons and staff handle thousands of gun and knife wounds each year—a volume which allows them to hone their skills and teaches them to attend to the subtle signs in a patient's condition which indicate hidden injuries.

Paul Glastris is a regular contributor to The Washington Monthly.

Lethal delays

Unfortunately, Cook County is an island of competence within Chicago's emergency medical system. To begin with, numerous seriously injured patients don't end up at Cook County or the other area trauma centers. That's because paramedics aren't given rules—"field triage protocols," as they're known in the trade—to determine what kinds of injuries go to which hospitals. Instead, local ordinances direct the paramedics to proceed to the nearest emergency room, unless the physician advising them on the radio—their "on-line medical director"—tells them otherwise. Since paramedics often can't or don't call their directors, and since these physicians, for various reasons, often won't direct the ambulances to a trauma center, too many patients die in emergency rooms that aren't prepared to handle them. In one notorious case last November, Ben Wilson, a 17-year-old high school basketball star, was shot twice in the abdomen on Chicago's South Side. Fire department paramedics brought him to St. Bernard's Hospital, which does not have a trauma unit, where he waited almost two hours before being taken to the operating room. He died shortly thereafter. Had St. Bernard's doctors transferred Wilson to a trauma center, or better yet, had he been taken to one directly, some physicians in Chicago believe he would have lived.

Nor was Ben Wilson an isolated case. Nurses, physicians and paramedics say delays like this kill patients in Chicago hospitals regularly. Studies conducted by Cook County Hospital show that patients with serious head injuries who were first taken to the nearest hospital and then transferred to Cook County were twice as likely to die as patients taken directly to Cook County.

Another problem is that not all trauma centers are as proficient as the one at Cook County. The state of Illinois designated certain hospitals as trauma centers 15 years ago; since then there has been no serious review to see if these hospitals are doing the job. An emergency room nurse with 20 years experience told me of a young woman suffering multiple injuries from an auto accident who was brought to a "level II" trauma center in a suburb near Chicago. The surgeon on duty arrived in the emergency room within 30 minutes of the woman's arrival. Three hours later, still in the emergency room, she died. When the nurse asked the department director why the woman

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The best way to save trauma victims is still through prevention—seat belt use, gun control and so on. But of the roughly 40 percent of trauma deaths that occur in hospitals, a large percentage could be saved with existing surgical techniques.

was never operated on, he replied that "the surgeon was afraid about what he was going to find when he opened the gal's chest, because he knew he didn't have the equipment to handle it." Why, then, asked the nurse, wasn't she immediately transferred to the "level I" trauma center five minutes down the road, where they would have the proper equipment? The director replied that the surgeon wouldn't allow it, claiming the woman was "too unstable to transfer."

The ultimate catch-22: a patient too badly injured for the surgeon to handle but too unstable to transfer to a hospital where she might have been saved. "I reviewed the records on this case," the nurse said. "I know this was a preventable death."

Fortunately, there are now trauma physicians and city officials calling for changes in Chicago's emergency medical system—changes that have saved lives in other cities. First, they want to redesignate trauma centers and begin inspecting and auditing their performance. Then, they want to institute triage protocols to get seriously injured patients to those centers. John Barrett, chief trauma surgeon at Cook County Hospital, estimates that these simple changes could save as many as 200 lives a year.

Chicago's trauma system is typical of systems throughout America. There are much better ones—for instance, in Maryland, parts of California, and Seattle—though advances in monitoring are showing that even these systems aren't saving a large number of patients with treatable injuries. Other areas of the country, such as southern Florida and many rural areas, have almost no trauma centers at all. Most urban and suburban America has trauma care like that in Chicago: half-organized, unassessed, slipshod.

'Safe in the arms of Jesus'

200 lives—just in Chicago. The figure gives some idea of the magnitude of the problems regarding the treatment of trauma. At least 140,000 Americans die each year of traumatic injuries; three times that figure sustain permanent disabilities. According to a National Academy of Science (NAS) report issued last spring, injury is "the principle public health problem in America today." Trauma is the leading cause of death among Americans under the age of 44 and causes the loss of more working years than cancer and heart disease combined—at a cost to society estimated by the NAS to be in the tens of billions of dollars each year. Advances in the treatment of heart disease and cancer come slowly and at a tremendous cost. Great improvements in the treatment of trauma victims are available now; indeed, they've been around for years.

If you're dubious about these numbers and you've never heard of the "trauma crisis" before, you're in good company. Many doctors don't believe it either. Most of us don't see injury as a preventable, treatable "disease" but rather as a matter of fate, an act of God. It's easy to believe the emergency room doctor who tells you that "nothing could be done" for the friend who dies from injuries suffered in a car crash. Yet study after study demonstrates that most emergency rooms simply aren't set up to save the most seriously threatened trauma patients. "Most people who wind up in ERs think they're safe in the arms of Jesus," observes John Otten, a trauma surgeon in Peoria, Illinois, "and that's often true in about 10 minutes."

The best way to save trauma victims is still through prevention—seat belt use and air bags in cars, gun control and so on. But the secret to saving lives once injuries occur is *quick* and effective surgery. The major cause of death in cases of trauma is simply the loss of blood. Surgery won't save most trauma victims, since more than half die so suddenly that even if the injury occurred in the operating room, the surgeons probably couldn't do a thing. But of the roughly 40 percent of trauma deaths that occur in hospitals, a large percentage could be saved using existing surgical techniques. How big a percentage is open to debate. But studies from all over the country have found that in places where there is no complete system of trauma care, which is most of the U.S., 20 to 50 percent of those who die in hospitals from trauma could have been saved. In

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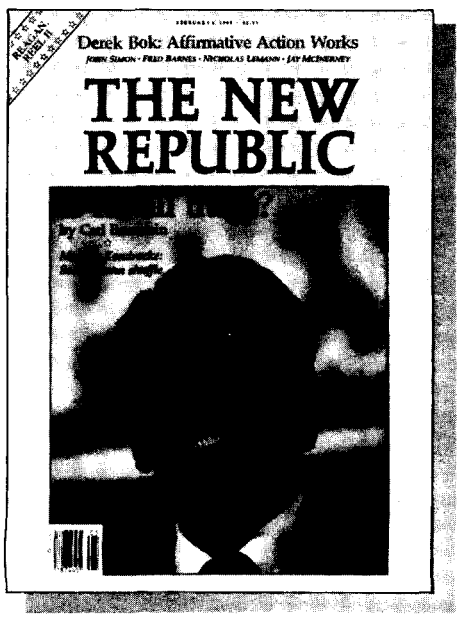

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'hoto: Maryland Institute for Emergency Medical Services Systems

Two reasons some doctors oppose reform of trauma care are ego and ignorance. Surgeons and hospital administrators refuse to believe that a lack of understanding and commitment on their part is killing people.

other words, 10,000 to 30,000 people die each year because an effective system of care hasn't been established.

In Chicago, trauma physicians and others have argued strongly for the changes, but so far without success. The roadblock isn't an immovable bureaucracy or corrupt politicians. Instead, the opposition comes from within the medical community—specifically from doctors and administrators at some Chicago hospitals that do not have trauma centers. Stan Zidlow, head of emergency medicine at Northwest Community Hospital, says that the doctors who sit on key advisory committees of Chicago's Emergency Medical Services Commission and oppose these changes, seldom say so; they just gum up the works. "After each new proposal came before the commission," he explains, "the medical community would put it back to the committee, have terms redefined, wouldn't designate people to watch for abuses in the system and so on. Every one of these proposals never came to fruition, and no agreement was reached."

Why oppose such sensible improvements? Two reasons, say trauma care reformers, are ego and ignorance. Physicians and hospital administrators refuse to believe that a lack of understanding and commitment on their part is killing people. The other big reason is money. The seriously injured often represent sizable revenues for doctors and hospitals. They require numerous procedures, close attention and, for those who live, long convalescences in expensive wards. By giving each Chicago hospital a share in the lucrative victims market, the current system pleases the largest number of local hospitals—at the annual expense of those 200.

With the city and county governments paralyzed by the medical community's obstinance, the people of Cook County must look to the state if they want their emergency medical system reformed. But the state has its own problems. Since the mid-seventies the staff of the state's Emergency Medical Services (EMS) agency has shrunk from 50 people to 19. The reason for the drop, one EMS official says, is a decrease in federal funding and the perception among state public health administrators that emergency service is not a very high priority.

Fear and favor

The man behind that federal EMS grant program also happens to be the man who designed the EMS system for the state of Illinois: Dr. David Boyd. In the early seventies, Boyd, then chief resident at Cook County Hospital's trauma unit, helped persuade Governor Richard Ogilvie to institute the nation's first coordinated, statewide system of emergency medical care. The program, interestingly, was financed with seed money that Boyd—like Ogilvie, a Republican—requested from the Nixon administration. Boyd's "systems approach" to emergency care—which involves paramedic training, regional radio communications, a network of state-designated trauma centers, and a trauma "registry" for monitoring and evaluating hospital performance—is still considered one of the great innovations in the field. As Illinois's first EMS director, Boyd soon gained widespread attention and testified before Congress on the need for a

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nationwide system of emergency care. From 1974 to 1981 he headed a new federal EMS program at the Department of Health, Education and Welfare. During those years Boyd allocated some $300 million in federal grants to states and localities to set up EMS systems.

Boyd failed, however, to convince Illinois officials to adopt triage protocols, probably the most important aspect of the systems approach. Without these guidelines, paramedics cannot route trauma victims to the right hospital with enough speed, leaving Chicago's emergency system a vast, sophisticated machine that is never switched on.

One reason the EMS office hasn't followed Boyd's lead is fear. Doctors, administrators, and trustees at Illinois hospitals who oppose reform have the power to pull strings at City Hall and in the state capital. Health officials in Illinois and in other states say that colleagues who have pushed for reforms, such as trauma center designation and triage protocols, have found themselves looking for work. "If I do my job the way you and I think I ought to do my job," one Illinois EMS official confides, "I don't *have* a job."

Boyd's grant money gave EMS advocates a much-needed push. So in 1981, when the Reagan administration folded the federal program into

One Doctor's Fight for Emergency Care

Despite hard evidence that improved emergency service would save thousands of lives each year, medical associations and hospitals across the country have opposed what they term "creeping government control." Perhaps the best example of this problem is the case of Dr. John West. In 1973 West was a practicing surgeon in Orange County, California when he began to realize that his otherwise first-rate hospital, St. Joseph's, provided inadequate trauma care. One day, an eight-year-old boy was hit by a car very close to the hospital. "They rushed him into the emergency room," recalls West (who was himself trained in trauma care at San Francisco General Hospital), "did an early resuscitation, started an IV, sewed his surface lacerations, dusted him off a little, [while] totally ignoring the obvious signs that the kid was bleeding internally." When the boy's blood pressure plummeted, doctors rushed him to the CAT-scan, where he went into cardiac arrest. "Finally it occurred to them to call a surgeon," West continues. "But by the time the surgeon got there, the boy was dead. On post mortem they found he had a ruptured kidney, a totally, easily repairable problem."

West brought the boy's case to the attention of the hospital's top surgeons and administrators. They brushed him off, unwilling to even consider the possibility that they weren't doing an adequate job in treating trauma. That inspired West to do a study for which he is now famous. He examined autopsy reports of 100 auto accident victims who died in Orange County hospitals in 1974. He also had Dr. Donald Trunkey, chief trauma surgeon at San Francisco General, do the same in that city. Orange County had no trauma centers, and, as in most communities, accident victims were routinely taken by paramedics to the nearest emergency room. In San Francisco, victims were taken directly to Trunkey's trauma center.

The results were staggering: 73 percent of the deaths in Orange County not involving brain injury were judged preventable; in San Francisco none of the deaths were considered preventable. But the Orange County medical establishment rejected West's study, citing questions of methodology. When the press got hold of the story, though, the ball began to roll. At last, in 1978, the Orange County Board of Supervisors challenged the local medical community to prove West wrong. So, with federal funds provided by David Boyd's agency in Washington, the Orange County Medical Association conducted a similar study, this time using the hospital's own records and passing the data through the most fearsome gauntlet of independent physicians and committees the Association could devise. The results: Orange County hospitals had a preventable death rate for non-head injuries of 85 percent. "My only inaccuracy," West recalls, "was that I had underestimated the problem."

Lives vs. legalisms

Predictably, the hospital lobbies feared that

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less well defined preventive medicine block grants, much of the cause's momentum disappeared. What has happened in Illinois seems typical of what has happened across the country. In many areas, trauma care has stopped improving; elsewhere it's actually getting worse. Says Mike Williams, former EMS director for Orange County, California: "I've seen some good systems that with federal money were on the verge of designating trauma centers decompose, and others that have just gone into a silent mode." Since no one gathers data on this subject, no one can say if individual impressions such as this are generally true. But one GAO study last year found that after the Reagan administration pulled the plug on Boyd's program in 1981, funding for EMS dropped in ten out of eleven states surveyed. The states, it seems, have not picked up the ball.

Beware the lobbyists

To get a picture of problems at the state level, it's worth taking a look at Pennsylvania. Approximately 50 hospitals in the state advertise themselves as trauma centers, but, according to officials, about six actually have the specialized staff and facilities that meet generally accepted standards such as those of the American College

specially designated hospitals would gain a competitive advantage and pushed for an unlimited number of trauma centers—defeating the goal of saving a handful of institutions specializing in emergency surgery. The local surgical society fought the 24-hour care commitment. A year and a half after the second study, the program was still being debated in committee meetings. "I'd give up days of surgery to go testify before the County Board of Supervisors," recalls West. "How could I argue the issue of preventable deaths against a lawyer [for the California Hospital Association] who was arguing due process? It was a tough battle."

Were it not for West's perseverance and a number of well-placed friends, Orange County might well have gone the way of Pennsylvania and Florida. One of those friends was David Boyd, who would fly into Orange County for key committee meetings. Another was Dr. Bill Thompson, a past president of the Orange County Medical Society who had the considerable credential of a law degree. Thompson was particularly adept at deflecting the opposition of the emergency physicians, who were some of the strongest opponents of the new program. "The ER physicians felt it usurped some of their power and prestige," Thompson recalls. But with his help, Orange County commenced its trauma program—complete with triage protocols directing patients to five trauma centers—in June 1980, six years after West's intial study. By 1983 the preventable death rate in Orange County for non-head injuries had dropped to nine percent.

The Orange County experience made West something of a celebrity, a role he nurtured by writing a novel about emergency medicine. Today, West is often asked by trauma care advocates in other communities to do his grim autopsy studies there. In most communities, he's not exactly a welcome sight. When West and his associates attempted such a study in Florida's Brouard County, which contains Ft. Lauderdale, local physicians tried to get a law passed to take hospital autopsy reports off the public record. Often, West has found, hospitals don't even bother to do such autopsy reports. "An autopsy costs about $100," says West. "It's probably the cheapest test with the most return of information. And yet in half the United States, they bury their sins, because they don't want to find out. . .that half of these patients are dying needlessly."

What incenses West most is the latest argument deployed by the medical community in its war on trauma centers: the claim that trauma care is too costly. In fact, setting up a trauma system requires only a reorganization of resources. And since designating trauma centers means cutting back on the rampant duplication of resources, the long term cost of trauma care might even go down. "There is no cost, *no* cost to the community," says West. His opponents, he insists, are liars: "They're telling the public it's a problem of costs, when it's really ego and greed."

—*P.G.*

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oto: Maryland Institute for Emergency Medical Services Systems

The Pennsylvania Medical Society and the state's hospital association have strongly opposed legislation that would improve emergency care. They also happen to be the fourth and fifth largest PAC contributors in Pennsylvania.

of Surgeons. Nor are there any state guidelines to insure that seriously injured patients get taken quickly to hospitals capable of treating them. As a result, the state's health department estimates that 1,300 injury victims die whose lives could be saved.

Trauma care advocates have been trying to do something about this for years, but the state's medical community hasn't let them get very far. David Boyd charges that millions of dollars provided by the federal government during the seventies were squandered on various unproductive committees. When EMS advocates attempted to publish an evaluation of hospitals in southwest Pennsylvania, an essential first step toward systematizing trauma care, the hospitals blocked the move. In 1981, the state health secretary, Dr. Arnold Muller, tried to institute the kind of statewide, state-enforced systems Boyd and others had advocated; he gave up the next year, thwarted by lobbyists from the Pennsylvania Medical Society (PMS) and the Hospital Association of Pennsylvania (HAP). PMS and HAP, by the way, ranked fourth and fifth respectively on the list of PAC contributors to Pennsylvania politicians that year. To make matters worse, several hospitals threatened to sue, charging—if you can believe it—restraint of trade. Only one hospital, Lehigh Valley Medical Center in Allentown, managed to get the state's official trauma center designation before the program was terminated. When the state compared preventable trauma death rates in Allentown before and after the designation, it found a 33 percent drop.

In 1983, members of the state legislature proposed a bill to develop in the rest of the state the same system that saved lives in Allentown. But after months of fighting, the sponsors threw in the towel and let lobbyists for the hospitals and physicians association gut the legislation. "I talked to my committee chairman and others," Rep. James Greenwood, the bill's House sponsor, told Andrew Schneider of *The Pittsburgh Press*, "and I finally realized the reality was that, unless this bill was blessed by the HAP, it would never get out of committee. There is a long record of that happening." The bill's Senate sponsor, Roy Wilt, chairman of the Senate Public Health and Welfare Committee, agrees: "The political realities were that we'd never be able to move the bill into law. HAP and PMS are very persuasive."

The law Governor Richard Thornburgh finally signed gives the state no power to designate, monitor or enforce the trauma center system. Instead, it leaves responsibility for setting "private, voluntary" standards for and maintaining the trauma "system" to an independent organization, the Pennsylvania Trauma Systems Foundation. The foundation is staffed primarily by members of the HAP and PMS. "We don't want the government involved," says the HAP's chief lobbyist, Jack Wicks. "We want the free enterprise, competitive approach."

The free market strategy

Pennsylvanians who want to see what a little free enterprise looks like in emergency medical care can take a look a thousand miles to the south at Florida. Like Pennsylvania, Florida took several million dollars worth of federal EMS grants in the seventies and began to designate

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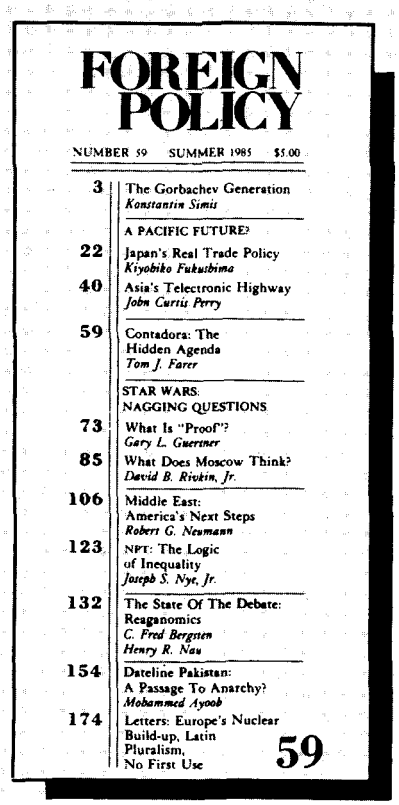

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trauma centers but failed to come up with a comprehensive state-wide plan. After the federal money ran out, Florida embarked on a new course. One jealous hospital that wasn't going to be designated a trauma center challenged in court the state's right to designate hospitals as such. Rather than meeting the challenge with a law empowering the state to designate selectively, the legislature mollified the hospitals in 1982 with a law allowing any hospital to call itself a trauma center. All the hospital had to do was file a long application promising to fulfill minimum manpower and equipment standards and then pay a small fee to cover the costs of state inspections.

Problems surfaced almost immediately. Most of the hospitals that applied were those competing in areas that already had enough trauma treatment facilities. Jacksonville, for instance, was well-served by the University of Florida Medical Center. Today, the city has eight trauma centers. Since the university hospital is tax-supported, the patients it now receives—about half of the total—are predominately those who can't pay, and these account for the lion's share of the gunshot and stabbing victims. The other seven hospitals are all private, and their patients are typically car accident victims who can pay their bills, thanks to car insurance. This skimming off of the profitable trauma victims, revolting as it may be, is probably less harmful in the long run than the shortage of cases that the surgeons and staff have at these seven hospitals. Without that volume, these practitioners simply won't be as effective at saving lives.

Jacksonville, though, has the distinct advantage of having trauma centers. In southern Florida, where there were none before the 1982 law, only a few applied after its passage. One reason hospitals held back was the fear that indigent patients, such as those from the large population of illegal aliens in the area, would be dumped on the first hospital to step forward. Another was the unwillingness of the local surgeons to make the commitment in time and effort to meet the state guidelines, one of which is to have at least some surgeons in the hospital at all times. In response, EMS officials purposely watered down the commitment statements to require only that the surgeons get to the hospital as quickly as possible—all in the hope of persuading more surgeons to take trauma care seriously. The changes were made despite the well known need for prompt action in cases of traumatic injury.

If the more lenient guidelines were meant to get more hospitals and surgeons involved, the effort didn't work too well. In Dade County, hospitals feared that if only a few institutions sought designation as trauma centers, they would be stuck with caring for most of the poor patients and those without insurance. To avoid the problem, the hospitals conspired to seek the designation en masse, effectively defeating the idea of having certain hospitals that specialize in emergency medicine. Elsewhere in southern Florida, hospitals didn't even make this gesture. Outside of Dade County, there isn't a single trauma center in the southern third of the state.

In other respects, Florida much resembles Pennsylvania. The same sort of legislative battle was fought just this year with hospital associations leading the successful counter-offensive against reform. Next year another bill is expected to come before the legislature, with the full support of the hospital associations, and it will aim at simply preserving the status quo. Dr. Ray Alexander, chief trauma surgeon at Jacksonville's University Medical Center and a state EMS advisor, observes that Florida has tried the marketplace: "Look what happened. It gave us trauma centers of questionable quality, distributed geographically in the worst possible way."

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As if all this weren't enough, the fees paid by those hospitals that did apply to be trauma centers were insufficient to pay state inspectors to do on-site investigations. "The way it works now," says Alexander, "you send your application to the state, and they send you your official trauma center certificate in the mail. If my staff, say, can't meet some of the commitments, well, I can just turn my head and the state's never going to know." Don't kid yourself into thinking no hospital would ever cut corners. John Pekkanen reported in *The Washingtonian* that Maryland inspectors made a surprise visit to a small hospital the day after an official inspection only to find a large quantity of expensive emergency room equipment being loaded onto trucks. The hospital, it seems, was eager enough to win designation as a trauma center to rent the equipment just for the inspection.

The price of delay

The Florida and Pennsylvania trauma center bills aren't wholly without merit. The debate surrounding them has raised public awareness and helped convince some doctors and legislators that there really is a "trauma problem" out there. The bills also call for field triage protocols and the drafting of hospital monitoring programs. Whether officials will have the will or the money to act on these plans is another question. But if they do, both states systems will be "switched on" (as Chicago's never was), and analysts will be able to compare the effectiveness of these free market trauma systems with that of government designated systems, such as the one in Orange County, California (see "One Doctor's Fight for Emergency Care," p. 26).

The doctors and hospital administrators aren't all heartless. Many truly believe their free market approach can save as many lives, perhaps more, than the government designation strategy. Of course, if numerous hospitals and doctors sincerely gear up for trauma, many lives will be saved. But in this contest, the burden of proof is now on the free market doctors and hospitals. The people who devised the government designation program spent several years studying the problem of trauma and have numbers to prove that their approach works. Most free market advocates spent those same years denying there was a problem; now they want us to believe they will solve it. Given the thousands of needless deaths that continue to occur because we don't have adequate trauma systems in place, you have to wonder if the contest is worth the price. ■

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This award is one of the highest in the journalism profession. It was established to "recognize writers who make significant contributions to the understanding of business and finance." And its intention is to "encourage excellent writing on these subjects and to protect the private investor and the general public."

Besides the Loeb Award, Forbes has recently received other important honors. In April of this year, Forbes won the National Magazine Award for Design from the American Society of Magazine Editors. That award is meant "to honor a magazine for the contribution its design has made to its editorial objectives and for the overall excellence of its physical presentation." Forbes was cited for employing "wit, irreverence and imagination to jar its readers into fresh thought."

In January 1985, James Michaels was named Editor of the Year by Adweek, and in January 1984, Malcolm Forbes was chosen Publisher of the Year by the Magazine Publishers Association.

As the recipient of such prestigious awards, it's not surprising that Forbes has become what Adweek called "the hottest business book of the past five or six years." But you don't have to look at our laurels to know that. According to a 1984 study by independent researchers Market Facts, Inc., when corporate officers in 1,000 of America's largest companies were asked to name their favorite among the three leading business magazines, Forbes was selected by 49% more than Business Week and 132% more than Fortune.

No wonder, of all the 137 magazines measured by the Publishers Information Bureau, only two—both weeklies—carried more advertising pages in 1984 than biweekly Forbes. In fact, Forbes ran more ad pages than the weeklies Time, Newsweek, Sports Illustrated, U.S.News, TV Guide, The New Yorker (and, for the past 10 years, biweekly Fortune).

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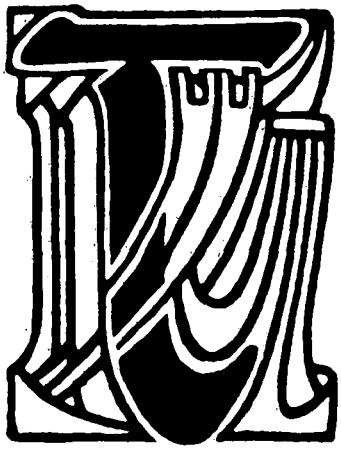

THE RECOMMENDATION RACKET: Who Do We Think We're Kidding?

by Paul M. Barrett

Until a year ago, Commodore Donal Billig directed the heart and chest surgery unit at Bethesda Naval Hospital, flagship of the Navy's medical division. Located just north of the capital in Maryland, the hospital specializes in curing top Pentagon brass and other Washington eminences; President Reagan had his cancerous polyp removed there this summer. Not surprisingly, quite a stir resulted when the Navy revealed in June that many of Dr. Billig's patients had been leaving his operating room in far worse shape than they had been in when they entered. As of this writing, Billig has been charged with involuntary manslaughter in the deaths of five heart patients and dereliction of duty in operations on 24 other patients.

Witnesses in a pretrial investigation have testified that in the five years before coming to Bethesda in June 1983, Billig had not performed any heart surgery. And here are some other curious facts about the case: a week before applying for the Navy position in 1982, Billig sought a job as an Air Force physician but was discouraged because his eyesight was found "unacceptable." A subsequent test revealed that he is legally blind in his right eye. The Navy has conceded that it received results from the Air Force physical but refuses to say whether it knew about Billig's sight problem. Finally, and perhaps most perplexing, Navy documents show that despite previous indications of incompetence, Billig came to Bethesda well recommended.

As recently as 1980, Billig admitted in writing that he had a sight problem. He did so in connection with his having been asked to leave Monmouth Medical Center in New Jersey because of questions about his ability. *The Washington Post* reported that Billig was also asked to leave at least one other medical job, a position with Thoracovascular Associates in Pittsburgh. In spite of this spotty record, the Navy received a letter of recommendation in August 1982 from one Manfred L. Cohen, a surgeon and former colleague of Billig's at Thoracovascular Associates. Dr. Cohen, according to the *Post*, wrote that Billig's performance had been "most satisfactory."

Granted, Billig's is an extreme case; letters of recommendation rarely contribute to multiple fatalities. Written references, whether in medicine, academia, or business, generally consist of euphemism and puffery: "It would be impossible to overstate Mr. McGillicuddy's abilities," and the like. But there's reason for concern, because as a society we pump out millions of letters of recommendation every year. The cumulative effect, demonstrated with unusual drama in the Billig affair, is a form of mass anesthesia. Questions of quality and standards are muddled by a foggy dialect of doublespeak. Everyone becomes "a fine candidate" for whatever position they seek. The unimaginative are "highly coop-

Paul M. Barrett is an editor of The Washington Monthly.

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> Rule No. 1 in college admissions: 'When you get a letter from a teacher that an applicant is only "recommended," you know that means that he is not recommended.'
>
> Fred Zuker
> Dean of Admissions,
> Pomona College

erative"; the obstinate, "independent minded."

It's not that middling performers should be penalized for being ordinary. Rather, evaluations formally committed to paper should have a special value, reflecting serious consideration by an author who feels some responsiblity for the deeds of the person recommended. Most people have come to accept casually the corrupted language of recommendations. After all, if everyone knows what's going on, who's going to get hurt? This attitude ignores, however, the danger of the corruption creeping into other forms of evaluation. Testimony in the Billig case revealed that although Bethesda Hospital officials knew Billig was unqualified to perform heart surgery, they nevertheless gave him written permission to operate. "There was some concern how we could have a head of the department without credentials," admitted Dr. Robert Cochran, former chief of surgery at Bethesda. As a result, Cochran testified, Billig was told that he would be supervised whenever he attempted heart surgery. "He was given full credentials on paper...but what was meant was something else," Cochran explained. Somewhere, "the something else" that was meant got lost in the translation.

Breaking Codes

The discrepancy between written word and literal meaning has long been an accepted part of college admissions. "When we get a letter from a teacher that an applicant is only 'recommended,' we know that means that he is not recommended," says Fred Zuker, dean of admissions at Pomona College in California. Without blaring trumpets and crashing cymbals ("Johnny is HIGHLY RECOMMENDED!!"), colleges assume the worst. Like most admissions officials, Zuker concedes that he often has to play cryptographer in order to discern what a letter of recommendation really says about a student. "When someone goes on and on about 'great potential,' that means [the applicant] hasn't done anything at all to distinguish himself," explains Zuker. " 'This student has unusually creative ways of relating to peers' means the kid has social problems."

Despite his cynicism, Zuker maintains a sense of humor about letters of recommendation. Some of his colleagues in admissions see nothing to smile about. According to a review of the academic literature on admissions presented by Robert Klitgaard in his new book *Choosing Elites*, references were found to be "almost universally positive, containing almost no negative information." Bert Ockerman, former dean of admissions at the University of Kentucky, says, "We found, across the board, whether in the college of law, or medicine, or with undergraduates, that letters were almost never useful."

The sheer volume of recommendations in college admissions contributes to their being unenlightening. According to the College Board, 1.5 million students annually fire off at least several applications each, and most colleges require two or three recommendations. Besieged by requests for references, high school teachers and guidance counselors rely on a stock of boilerplate superlatives that they can assemble quickly. Another reason for the tendency toward unremitting praise is a desire to see a large percentage of students get into good schools. A high batting average on college admissions speaks well of the teachers and administrators who write the recommendations. "It's a prestige thing," says Pedro Arango, who conducts seminars on recommendation writing for the National Association of College Admissions Counselors. The problem, says Arango, is that "the process becomes kind of a game in everyone's eyes"—the high schools trying to snooker the colleges with evasive recommendations and the admissions offices sifting for hidden meanings between the lines.

Little of this is lost on students, especially those who read one of the myriad handbooks on how to score big in the college admissions game. Consider the advice provided by Joel Levine and Lawrence May in their volume *Getting In*: "Go to the softees, but only if you're having trouble. Some teachers write good recommendations for everyone, whether they abhor the entire process, are too lazy to evaluate each student or want all

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their students to do well." Levine and May also comment that a kind word from a U.S. senator "may help a bit if you are so tied in with him that his position, power and relationship to you add to your attractiveness." The authors warn, however, that members of the House, priests, and millionaires probably aren't worth pursuing. Neither are busy big-shot journalists, according to Fred Zuker of Pomona. One recent applicant at that school submitted a letter from Walter Cronkite, who, according to Zuker, produced only two sentences: "I promised to write a letter of recommendation for the son of a colleague. This is the letter."

'Fantasy land'

The higher you go in education, the wilder the enthusiasm in letters of recommendation. In applications for graduate or professional school, anything short of a rave is perceived as a potentially fatal blow. A recent exchange of letters in the *New England Journal of Medicine* revealed that medical school admissions officers compare reading recommendations to "entering fantasy land." As in high schools, institutional interests play an important role, and nowhere is this more evident than at Harvard University.

Harvard's undergraduate "houses" (a blue-blood term meaning "dormitories") compete to get the highest percentage of their students into law, medical, and business school. "We're told that our job is to advocate, not to judge," explains one graduate student who writes recommendations for aspiring lawyers. "I don't need to know the people I write for very well, because I'm just presenting their case. Who am I to judge?" This letter writer has enjoyed considerable success in getting his clients into law school.

Many educators date the onset of recommendation inflation to a broad decline in academic standards that began in the late sixties and is only beginning to level off today. "We gave away the moon," says Carl Bode, professor emeritus of English at the University of Maryland. "Required courses were dropped; suddenly we thought students knew more about education than the faculty." Bode's recollection holds true for the rest of the nation; statistics compiled recently by *The Chronicle of Higher Education* show that grades did soar in the sixties and seventies. But more than any one university, the American Historical Association pushed the anti-standard movement to an all-time extreme. Debating whether to write a letter for a talented but somehow dangerous-looking graduate student, an American history professor might turn to his association's 1974 "Statement of Professional Standards" (which is still on the books) and find this: "Conviction for criminal activity should not be held to the professional discredit of a historian unless it clearly demonstrates unfitness for historical scholarship and teaching."

Even in a period when schools are at least rhetorically embracing the notion of high standards, there is a widespread impression that it has become legally difficult, if not impossible, to give students less than a full endorsement. Many academic recommendation writers say they fear that if they were to mention something negative—a minor off-campus robbery, for example—students would be able to find out and sue them. The source of this concern is a 1974 federal law named for its sponsor, former Senator James Buckley. Under the Buckley Amendment, school records must be made available upon request to parents of young students and to the students themselves if they are older than 18. When it was first introduced, the law created panic among educators, who predicted the demise of confidential records and the candor that went with them. But the Buckley Amendment was subsequently amended so that students could waive their right of access, and it is now conventional wisdom that the only way to get a meaningful letter of recommendation is to sign a waiver. In effect, therefore, the Buckley Amendment should have little real impact at the university level. Recommenders' fears about a lack of confidentiality "are probably the result of ignorance," says John Marquand, assistant dean of Harvard College. Sheldon Steinbach, a veteran Washington lobbyist for a number of universities, says he has never heard of a suit brought by a college or graduate student over a letter of recommendation.

Unchain the lawyers!

In the business world, the fear of lawsuits over critical letters of recommendation is far more justified. Many companies that once routinely provided written references for former employees have curtailed this practice or eliminated it altogether. "I advise [clients] to give just the facts: dates of employment, position, maybe salary—nothing more," says Peter Panken, a New York attorney who represents companies in labor disputes. "Why expose yourself to a potential suit, when you really don't have much to gain by giving an elaborate reference?" Panken adds. Labor lawyers say that employees bring

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thousands of suits each year against ex-employers, and a good portion of the cases involve negative references. Although plaintiffs often lose in court, Panken explains, the high cost of defending against such suits encourages companies to take every precaution. And sometimes even silence doesn't do the trick, as this case reported recently by *The New York Times* demonstrates:

An insurance company based in Minnesota fired three employees following a dispute over expense statements and later refused to provide any explanation for the discharge when prospective employers called. The insurance company's silence forced the employees themselves to explain why they had been let go. The employees sued the insurance company for defamation, which usually requires the plaintiff to show that a statement was false and that he was materially harmed as a result. However, the Minnesota Court of Appeals, in a novel interpretation, ruled for the former employees, saying the insurance company had defamed them even though it had remained silent. The appeals court also upheld most of a lower court's award of more than $1 million in damages. (The case is being appealed again.)

When employers are willing to provide written references, they are seldom of any value. Anything beyond dates of employment and salary is likely to be vague or, worse, downright dishonest. When trying to get rid of an incompetent worker, employers "tend to offer a glowing tribute" as a reference, says Michael Morley, president of Edelman International, a large public relations firm. "If you go quietly, you will get quite a good letter," says Morley. When this kind of lying is not feasible, employers sometimes try a different trick: blaming themselves, as in, "It was our error to hire Schwartz; he wasn't well suited for the job. For you, though, he's a gem." Needless to say, such employers are in danger of having the same stunts pulled on them, but the cycle of equivocation continues. Employee ineptitude prompts employer subterfuge; before long no one will be telling the truth. Across America the least-talented people will rise to the highest executive positions—that is, if anyone still reads the letters.

Writing in *Harper's* magazine in 1982, Jeffrey Burke explored the roots of this problem with an elegant literary critique of the effect of "the business sensibility" on the "genre" of letters of recommendation. "With its affection for language like 'recommendation situation' and its penchant for reducing as much work as possible to form, the business world couldn't comfortably abide the precise, subjective, personalized style of a genuine letter of recommendation," Burke noted. "In fact, the business letter of recommendation's predictable lack of substance or distinctiveness made it a perfect candidate for inclusion in Mad Libs (edition No. 10). Nothing speaks more eloquently for the genre's condition than the idea of a roomful of partygoers filling in the blanks with names, nouns, and adjectives, elevating a commonplace to transcendent hilarity."

No laughing matter

Viewed from a distance, deceit can seem funny. But on closer inspection the hilarity fades. There was nothing at all amusing about the case of Dr. Arif Hussain, which surpasses even the Billig affair for notoriety. Hussain, an anesthesiologist at Brigham and Women's Hospital in Boston, was, along with two other physicians, convicted of raping a 28-year-old nurse. Hussain's 1981 trial received nationwide publicity, and his mild punishment (revocation of his Massachusetts medical license and six months in jail) prompted criticism from many quarters. But perhaps more shocking was the fact that only two months after the conviction, Hussain was hired at Children's Hospital in Buffalo, New York.

Officials at the Buffalo hospital had somehow missed the numerous press reports about Hussain's conviction, while no less than three Boston physicians had provided Hussain with glowing letters of recommendation, all of which neglected to mention the rape. All the letters were written soon after the verdict was returned—one of them on the very next day. Children's Hospital only discovered the truth about Dr. Hussain after allegations regarding other incidents of sexual assault were made public.

Hussain reportedly now practices in Pakistan, but the scandal continues to haunt the Boston medical and academic community. Medicine, with its panoply of credentials and its complicated hierarchy, would seem to be especially secure from the usual fakery of letters of recommendation. To get to Brigham and Women's, one of several Boston hospitals affiliated with Harvard Medical School, you have to prove your ability and trustworthiness in a highly competitive series of internships, residencies, and fellowships. Yet Hussain's successful post-conviction job hunt demonstrates how easily standards are corrupted in even the most respected of professions.

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In the wake of the Hussain case, Harvard Medical School launched an investigation of recommendation practices (two of Hussain's sponsors were on the Harvard faculty). The medical school's report concluded that "in recent years letters of reference have tended to be less precise and to contain less information which might be interpreted as negative." One surgeon at Massachusetts General Hospital told *The New York Times*: "Letters of recommendation today are worthless. I have been given advice by our hospital lawyer: if you want to make a derogatory remark...do it by phone, and do it from a pay phone."

Picture the Harvard doctor, afraid to criticize a colleague on paper, sneaking around to make anonymous calls from a phone booth. Imagine the company president, merrily jettisoning an unwanted subordinate with a false endorsement, while an equally incompetent person, also suitably credentialed, fills the empty desk. One thing you can draw from the way we handle letters of recommendation is that we don't mind hypocrisy, as long as it's well typed and properly addressed. Even in religious matters, it appears, we tolerate dishonesty in references. David Britt, director of admissions at Southern Baptist Theological Seminary in Louisville, Kentucky, recalls one letter from a pastor who ranked an applicant's character as "above average." When Britt called the pastor, however, he admitted that the applicant had a serious drug-abuse problem and a "manipulative behavior pattern to cover it." The pastor had even driven the applicant to a hospital following an overdose of a controlled substance.

This kind of behavior is just another illustration that as individuals we tend not to feel responsible to people we don't know. The tort lawyers squeeze insurance companies for the "usual million"; the tax shelter experts devise ingenious ways to defraud the Internal Revenue Service. Of course, it's other policy owners who foot the big insurance bills and honest taxpayers who pay for the cheats. In the same spirit, physicians see little harm in glossing over a colleague's failings if it will help him get the job he wants. It's what any buddy would do. Forgotten amid the camaraderie are the patients the inadequate surgeon will be operating on. Individually, little fibs don't do much harm, but in writing letters of recommendation we have made dishonesty a habit. By constantly trying to fool the other guy, who probably knows what we're up to anyway, we only prove how little our opinions matter. ■

THE WASHINGTON MONTHLY

Journalism Award

for August 1985 is presented to

Ronald J. Ostrow
and
Robert L. Jackson
Los Angeles Times

In a wide-ranging investigation still underway, Ostrow and Jackson have done more than any other reporters to untangle the strange case of Teamsters Union President Jackie Presser. They have consistently been one step ahead of the pack in revealing how Presser slipped through the hands of the Justice Department by gaining immunity as an informant for the FBI. But more important in the long run, Ostrow and Jackson have raised important questions such as: Do turf battles between law enforcement agencies hamper many federal prosecutions? Does the FBI lean too heavily on informants and give them so much leeway that effective control becomes difficult? And is the public interest served by government-sanctioned corruption at the top of powerful institutions?

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation.

The award for stories published or aired in October will be announced in the January issue. Nominations will close November 15. Nominations should be accompanied by two copies of the story or stories.

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WHO'S WHO in the Administration

Margaret Heckler's removal from the Health and Human Services Department and exile to the U.S. embassy in Ireland confirm our earlier analysis of **Donald Regan**'s plans as White House chief of staff. Many at the White House have long advocated Heckler's ouster; her politics are generally moderate, and she has the reputation of being a poor administrator and something of a loose cannon. But it was Regan who persuaded a hesitant **President Reagan** to finally show Heckler the door. Regan has succeeded in establishing himself as the uncontested heavyweight among the president's top advisers. The only person with more influence, and the one who could still cause trouble for Regan is **Nancy Reagan**....

Just before she left HHS, Heckler suffered through one final administrative embarrassment, this one at the hands of Sen. **William Proxmire** and the Congressional Research Service. Proxmire brought to public attention a CRS study which concluded that eight top HHS officials were probably holding their jobs illegally because the administration had failed to send their nominations to Congress....

The National Transportation Safety Board is having personnel problems of a different sort. Since January, the NTSB has lost a large number of its most experienced air safety experts; some were promoted within the agency, while others emigrated to the Federal Aviation Administration and the National Aeronautics and Space Administration. Obviously the situation is one of great importance, given what we have learned in recent months about the inadequacy of maintenance and safety precautions in the American airline industry. One explanation for the numerous departures from the NTSB is that its chairman, **Jim Burnett**, has attempted to step up the agency's activities in highway and railroad safety—some say at the expense of the aviation division.

Those of you on the left and even in the center may have noted that Fidel Castro has made several friendly signals in the last couple of years, including an apparent attempt to redeem one of his worst sins by offering to take back the Marielistas. You probably have also wondered why the White House hasn't taken advantage of this opportunity to ease tension with Cuba. The explanation apparently has little to do with foreign affairs. Discussing Reagan administration attempts to lure communist regimes away from the Soviet Bloc, one White House "senior aide" told *The New York Times*, "Trying [to improve relations] with Cuba isn't worth the problems it will cause with the right wing here." We are told that the speaker was **Robert MacFarland**.

In

AGRICULTURE

Deputy Assistant Secretary for Science and Education—**Daniel McPherson** has been a vice president of General Mills.

DEFENSE

Undersecretary of Defense for Research and Engineering—**Donald A. Hicks** has been an adviser to Secretary Weinberger on scientific and technical issues and senior vice president in charge of marketing for Northrop Corporation.

ENERGY

Director of the Office of Policy Planning and Analysis—**Brian Benson** has been a public information specialist on domestic finance and enforcement at the Treasury Department

Associate Solicitor for Energy and Resources—**Lawrence Jensen** has been nominated to be assistant administrator at the Environmental Protection Agency in charge of water programs.

LABOR

Director of the Office of Federal Contract Compliance Programs—**Joseph N. Cooper** has been assistant director for resource development at the Minority Business Development Agency of the Department of Commerce.

STATE

Deputy Assistant Secretary for Inter-American Economic Affairs—**Paul Taylor** has been deputy chief of mission in Guatemala.

Director of the Office of Soviet Affairs—**Mark R. Parris** has been a political counselor at the U.S. Embassy in Moscow.

Ambassador to Jamaica—**Michael Sortirhos** has been head of Ariston Interior Designers, Inc.

TREASURY

Deputy Treasurer—**Paul W. Bateman** has been deputy assitant secretary for economic development in Commerce.

Deputy Assistant Secretary for Tax Policy—**Don Fullerton** has been an associate professor of economics at the University of Virginia.

Out

WHITE HOUSE

Associate Director of the Office of Management and Budget for Human Resources, Veterans and Labor Programs—**John F. Cogan** will be returning to the Hoover Institution at Stanford University.

HEALTH AND HUMAN SERVICES

Secretary—**Margaret Heckler** has been appointed U.S. Ambassador to Ireland.

INTERIOR

Director, Fish and Wildlife Service—**Robert A. Kantzen** has resigned.

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Toxic Chemicals and 18-Wheelers: The Dangers of Deregulation

by Kitry Krause

The air on this damp September morning is thick with diesel exhaust as a long line of trucks rumble off I-95 and into a weigh station near Dumfries, Virginia. As on any other day when the weigh station is open, every truck must pull over the scales, but today there is a special twist to this routine. In a parking lot adjacent to the scale, a four-man team stops trucks for surprise inspections. The driver of an empty fuel tanker with Virginia plates is one of those waved over to the inspection site. He leans on his steering wheel while an inspector checks his license, driving hours log, and shipping papers. He climbs down and watches, tight-lipped, as the inspector shakes his gas tank, kicks his tires, and wriggles on the gravel-covered asphalt to get a close look at the suspension and brakes. The driver, who declined to give his name, is clearly embarrassed when the inspector finds the front axle brakes have been disconnected. The inspector sticks an "Out of Service" sign on the tanker's windshield and says the truck cannot be moved until all the brakes work.

If you had watched only this one inspection, part of a "nationwide" effort run by federal and state teams, you might feel safer the next time you're on the highway, jockeying for position with the 18-wheelers. Unfortunately, you would have had the wrong impression. Many states, including Virginia, had only two inspection sites. The officials at the Dumfries weigh station checked a total of eight trucks during a three-hour morning session. In addition to this driver's truck, two others were also put out of service for brake problems. But while eight were checked, hundreds rolled through the weigh station uninspected and accelerated back on to I-95. If three out of eight trucks were taken out of service for brake problems, consider how many others—in Virginia alone—are operating with potentially dangerous defects. Even more frightening, consider that one out of every 10 trucks carries hazardous materials such as gasoline, sulfuric acid or anhydrous ammonia.

Most of the 250,000 daily shipments of hazardous materials—four billion tons per year—move in trucks. A recent study of accidents in the Washington area has focused attention on the potential danger of trucks and the hazardous materials they carry:

- On August 12 a tank truck on the Beltway leaked 500 gallons of corrosives onto the highway. Had the tank burst and released a chemical cloud, it could have been lethal, local fire officials said. There were no injuries, but 600 people were evacuated from the area.
- On September 6 a propane truck flipped over on the Beltway, causing two small tanks to explode into fires. The main tank never blew, but it took 13 hours for the blaze to burn out. 400 people were evacuated.
- On September 13 and 20 large trucks caused major accidents, again on the Beltway. One involved a tanker carrying oil, the other, a tractor-trailer whose brakes failed.

Across the nation, trucking is getting more dangerous. The Department of Transportation (DOT) reports the number of trucking accidents

Kitry Krause is on the staff of The Washington Monthly.

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Safety was not a major issue in the 1980 debate over deregulation. Neil Goldschmidt, Jimmy Carter's Secretary of Transportation, declared, 'Let me categorically state that regulatory reform will not pose a safety problem.'

rose by 18 percent from 1983 to 1984, the largest jump since 1967. That's 37,200 accidents per year. One reason the roads are getting less safe is that federal deregulation of the trucking industry in 1980 so increased competition that less scrupulous trucking companies have tended to skimp on maintenance and permit unsafe practices by their drivers. Contrary to what proponents of deregulation argued in the late seventies, market forces have not adequately provided incentives to keep trucks safe.

The airline industry is another case in which experts have debated the possible links between recent deregulation and inadequate safety standards. In the wake of several crashes and numerous near-misses this year, some airline employees have admitted that airplane maintenance has suffered recently. American Airlines was fined $1.5 million in September—the largest such penalty ever—for numerous safety violations. Although statistics still show that flying is a relatively safe way to travel, the Department of Transportation has proposed increasing the number of air controllers and plane inspectors in hopes of improving safety. Likewise, in trucking, we should not be satisfied by the fact that so far we have avoided a "Bhopal on wheels," as one worried New York state transit official put it. The massive toxic gas release in India, which killed 2,000 people, as well as another major toxic leak from a Union Carbide plant in Institute, West Virginia, are recent reminders of the danger of hazardous materials. But you don't have to live next to a chemical plant or dumpsite; anyone who travels on or lives near a road used by truckers should recognize the danger that a major truck accident involving hazardous material poses.

Heads in the Sand

Trucking has always been a dangerous business, but from 1935 through 1980, strict economic regulation protected "for-hire" carriers in large part from the vagaries of the free market and thus took away some of the pressure to skimp on safety measures. Before 1980, the Interstate Commerce Commission tightly controlled what products carriers could haul, who they could haul for, and what roads they could use. (Unlike for-hire carriers, producers who ship their goods in their own trucks have always been exempt from economic regulation. For-hire trucking companies now make up around one-sixth of all carriers, but they haul nearly half the total tonnage.) While this meant trucks often ran empty or miles out of their way, profits were almost guaranteed. Trucking companies were immune from antitrust laws, and the government routinely approved their collectively set rate increases. While successful trucking companies prospered, people who wanted to get into the industry or to expand their territory had to endure months of federal paper-shuffling and pay for expensive Washington lawyers to argue before the ICC that the public needed new service, that the need could not be filled by existing carriers, and that if allowed in, those same carriers wouldn't be hurt by the competition. Estimates of what it cost the public each year to support the trucking cartel ranged up to $5 billion.

Not all of the old rules and regulations were eliminated. Trucking companies must still file documents requesting entry into the industry, although the process is largely a formality. Some rates are still set collectively, and in those cases, carriers still enjoy immunity from antitrust laws. Many safety regulations are still in place, though, as we shall see, they are rarely enforced. But by and large, the federal government has removed all significant economic controls on trucking. As a result, the number of for-hire trucking companies has doubled since 1980, pushing the total of all carriers to 210,000.

Initiated by the Carter administration, economic deregulation received broad bipartisan support in Congress, where numerous legislators

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preached that it was high time to tame the oligarchs of trucking. Amid all the rhetoric, however, few voices were heard on the issue of safety. Common sense would lead you to the conclusion that if you free up the market in an industry that has inherent hazards, you had also better increase enforcement of safety regulations so that the aggressive competitors don't cut corners on maintenance and other precautions. This is especially true of carriers of hazardous materials. With looser entry requirements and no increase in safety measures, new and inexperienced trucking companies will inevitably take on jobs they aren't prepared for.

Representatives of the industry certainly made these points during congressional hearings, but their arguments were dismissed because they were seen as efforts to prevent the established truckers' loss of profits. "Congress totally missed safety as a consideration in. . .deregulation," says Cliff Harvison, managing director of the National Tank Truck Carriers association. "Every time an industry spokesperson mentioned safety, [legislators] thought we were trying to protect our cartel."

The proponents of deregulation, meanwhile, laughed off what they took to be naive suggestions about the impact lifting economic restrictions would have on safety. The market would take care of that by allowing Adam Smith's invisible hand to guide the trucks safely home to their bays. Testifying before the Senate Commerce Committee, Neil Goldschmidt, Carter's Secretary of Transportation, said: "Let me categorically state that regulatory reform will not pose a safety problem." Alfred E. Kahn, then chairman of the Council on Wage and Price Stability, added, "It's just inconceivable to me that cutthroat competition could be a way of life in the trucking industry."

A patchwork safety bill that had been prepared to accompany the main deregulation legislation was completely overshadowed in the debate and never passed. The only action Congress took in this regard was to raise trucking companies' minimum insurance levels, a measure which has done little to increase safety (see "Insurance: No Solution," p. 43). "In the grand scheme of things, safety wasn't that big an issue," explains one Senate staff member who worked on the legislation. Without a lot of constituent mail or a string of massive disasters to galvanize public interest, politicians see little to gain from being the voice for safety in American trucking.

The laissez-faire theory that economic deregulation would not diminish safety in trucking crumbled soon after truckers were cut free from the old restrictions. With many more companies and independent drivers competing for freight tonnage that has shrunk since 1978, rates began to drop immediately. Among those hurt in this price war were trucking companies which specialized in hauling hazardous materials. Harvison says that in 1979 companies earned an average of $1.45 per mile per hundredweight for bulk chemicals. Today some rates are as low as 89 cents. The American Trucking Association reports that in a recent survey of trucking companies, 45 percent said they operated at a loss in the first quarter of 1985. In 1984, while thousands were entering the industry, 1,409 carriers went bankrupt, an all-time high.

So what will a trucker struggling to keep his head above the rising tide of red ink do? First, he might postpone or cancel repairs and maintenance. "There are people out there without the same standards as the good companies," says Jim Carr, transportation director for Chemical Waste Management, a shipper of hazardous waste. A driver from upstate New York confirms Carr's assessment: "The higher-ups have said cut costs in maintenance, so they only do breakdown instead of prevention." Another driver from New Jersey agrees: "Before they used to do it automatically. Now they won't fix anything unless you complain. We have a lot of trucks with bad brakes. . .The company says they're not forcing anyone to drive them, but the [drivers] aren't complaining either."

In an attempt to cut losses, companies tacitly encourage drivers to speed or to drive more than the 70 hours every eight days they are allowed to by law. Instead of paying conventional wages, many more companies are now paying drivers only by the load or by the mile, giving the drivers their own incentives to hurry. These rates are low, and time spent loading, unloading, making repairs and resting isn't paid. Speeding is clearly dangerous, but driving with too little sleep is probably worse. It is generally estimated that 90 percent of all truck accidents are the result of driver error, and according to a study by the Transportation and Research Marketing group, most of those can be attributed to driver fatigue.

There is little doubt that skimping on safety has resulted in unsafe trucks on the road. A computer analysis of DOT accident and safety inspection reports conducted by the San Jose *Mercury News* found that nearly one out of three trucks randomly stopped on the highway in 1983 was put out of service for violations serious enough

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to cause an accident. One out of four trucks had defective brakes and one out of five drivers had been on the road for more than the allowed hours of service. These statistics apply to all trucks; they become more ominous when applied to those carrying hazardous materials. Pat Touchard, supervisor of the Louisiana State Police hazardous materials unit, says that 40 percent of the tickets given to truckers of hazardous materials in the last three years in Lousiana have been for serious safety violations. "We take trucks out of service that are missing a brake and that are carrying liquified petroleum gas or anhydrous ammonia," Touchard says.

Sergeant Clark Mortensen, Touchard's opposite number in the Illinois State Police, says that "because of deregulation, a lot of people are hauling hazardous materials who have never hauled them before." Mortensen describes one owner-operator who rented a tank to deliver a load of anhydrous ammonia. When the driver got to his destination, a farm, he couldn't get the valves to work properly, so he wedged the automatic emergency valve open. When a hose ruptured, there was no way to stop 4,000 gallons of the chemical from pouring out and vaporizing. The accident killed 10 cattle and seriously injured five firemen.

In the face of powerful economic pressure to cut safety precautions, the free market offers no countervailing force. Many company owners and drivers are desperate just to meet their costs. Shippers are too often happy to take advantage of the drastically lower rates and are satisfied if their load arrives at its destination on time. The rest of us who drive on highways or live near them are only vaguely aware of the potential danger. We worry, perhaps, about a nearby toxic waste dump leaking into our ground water. But we may not stop to think that other hazardous materials move on our roads every day. It is difficult to compare the DOT's figures on accidental releases of hazardous materials before and after deregulation because reporting requirements were changed in 1981. In 1984, 4,307 reported accidental releases resulted in six deaths and 140 injuries. The DOT estimates that the number of accidents is underreported by at least 30 or 40 percent.

Trucks: 10,000; inspector: 1

The problem with truck safety is not a shortage of regulations. The DOT writes rules for maintenance and performance of all trucks, limits the number of hours a driver can work, and specifies what kinds of records he must keep. The agency also classifies hazardous materials and sets stringent tank and labeling specifications. But regulations drafted by people behind desks in Washington won't make a bit of difference if no one is out enforcing them.

In fact, state and federal inspectors check only a tiny fraction of the 1.3 million heavy trucks operating in the country. Consider, first, the Bureau of Motor Carrier Safety (BMCS): an obscure agency with a $14 million annual budget, tucked away in the DOT's Federal Highway Administration. The BMCS is responsible for enforcing federal safety and hazardous material regulations for all interstate carriers. When it conducts one of its national inspections, the agency's field inspectors check for problems with brakes, steering, tires, and wheels, as well as for possible falsification of log books. For trucks carrying hazardous materials, they also check shipping papers, package labeling, placards, valves, and the type of container. "When the job is done, it's done well," says Cliff Harvison. That was apparent during the inspection at the Dumfries weigh stations. But as was the case in September, the BMCS does not have the manpower to conduct more than two or three inspections a year, one of them announced ahead of time. The most discouraging number of all is 130; that's how many inspectors the BMCS has nationwide, and each of them is theoretically responsible for 10,000 trucks.

Furthermore, those inspectors spend most of their time looking through file cabinets, not under hoods. They work in truck company offices, checking maintenance schedules, insurance coverage and accident reports, among other things. Again, the numbers overwhelm the feds: this year the agency hopes to audit 10,000 carriers—only four percent of the total. Even when violations are found, fines are rare, totaling only $183,700 for all of 1983, the last year for which statistics are available. No criminal penalties were collected in 1983, and no criminal cases were prosecuted. As one insurance executive told the Senate Commerce Committee, "It is widely known and accepted. . .within the highway safety community that the Bureau of Motor Carrier Safety is a tiny, understaffed, underfunded, undermotivated creature [with a] responsibility totally out of proportion to its size."

Despite the new pressures created by economic deregulation and the agency's already desperate situation, the Reagan administration has refused to beef up the BMCS. Invoking the notion of "new federalism," the White House has declared

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that truck safety is largely the responsibility of the states, even though most states clearly do not have the resources to shoulder the burden.

The states as a group do many more inspections of interstate trucks than the BMCS, but even their efforts are woefully inadequate. State agencies, which are also exclusively responsible for intrastate trucking, are usually strapped for funds. Moreover, many states have not adopted all of the federal safety regulations and their own laws are considerably less strict.

Texas, for example, has no restrictions on how many consecutive hours a trucker may drive. If an interstate trucker doesn't have the extraordinary bad luck to run into a federal inspection, he can drive all day and all night across Texas without fearing interference from the law. Texas State Representative Ed Emmett has fought unsuccessfully for legislation applying all federal trucking regulations to the state. Although the Texas trucking lobby supports Emmett, he says that lobbyists for a single powerful concrete company have blocked the bill. Emmett claims that few other safety regulations are enforced in Texas: "A truck can roll without brakes. . .without air in the tires. . .and not be illegal."

Many states have no special requirements for driving trucks carrying hazardous materials, so any 18-year-old with a license can get behind the wheel. Some drivers may never have handled a truck before; in Oklahoma, for instance, drivers may take their road test in "whatever [vehicle] they want," says Pat Collins, a state trooper. In addition, it is so easy to get licenses from different states that many drivers have several so they never have to get more than a couple of violations on each.

Penalties for safety violations also vary drastically from state to state. Most states assess penalties through common traffic citations, making it difficult to identify truck companies and drivers who have had consistent safety problems. Even states that do adopt federal rules often set their penalties so low that enforcement is almost meaningless. An interstate trucker carrying anhydrous ammonia who is stopped by a BMCS inspector and found to have bad brakes could face fines of up to $25,000 and a five-year prison term (although such a penalty is highly unlikely.) In most states, the top penalties for the same violation are only a couple of hundred dollars. "I've never yet stopped a driver who didn't have sufficient funds to pay his penalty and keep going," says Scott Feldhauser, an officer with the Colorado State Patrol.

Few states have a large enough enforcement

Insurance: No Solution

When Congress deregulated the trucking industry in 1980, it made only one major change in safety requirements: it mandated that all trucking companies would have to buy expensive insurance policies to ensure that they would be "financially responsible." Congress set the minimum levels, up to $5 million depending on what a trucking company generally carried—the more dangerous the cargo, the higher the minimum insurance.

The theory was that market forces would make it very costly or even impossible for irresponsible carriers to secure adequate insurance. One House of Representatives committee report on the legislation noted, "Insurance companies are equipped to evaluate the performance of motor carriers. The premiums they assess are in direct relation to the risks they assume."

Unfortunately, this tidy model didn't work. The first major problem is that any carrier that wants insurance can get it from state "residual markets". Each state has a residual market that serves as an insurer of last resort for carriers unable to attain insurance on the open market. State laws generally require that all licensed carrier insurers underwrite a portion of the residual market. While the residual rates are 15 to 20 percent higher in most states, the insurers cannot cancel the policies, no matter how bad the risk involved. According to Philip Brown, assistant marketing director with The Travelers insurance company, the residual markets "provide a haven with absolutely no incentive to improve" safety.

Another problem is that Congress has not prevented trucking companies from "layering" their insurance—buying it piecemeal from several different companies. When trucking companies use this technique, no one insurance company knows whether the carrier has purchased the total required amount of coverage. The federal Bureau of Motor Carrier Safety found that in 1984, 25 percent of the carriers it audited failed to meet the required minimum insurance levels.

Truck safety advocates and the insurance industry have told Congress that the market will not improve safety through the new insurance requirements. But so far, few on the Hill seem to be listening.

—*K.K.*

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staff to make fines, however costly, a deterrent against unsafe practices. In many states the highway troopers who enforce trucking regulations lack special training. As a result, they tend to focus on the easiest violations to spot—usually less important mistakes, such as an inconsistency in shipping papers—while they overlook more serious ones, such as container defects.

As on Capitol Hill, there is no vocal constituency for truck safety in most states. State legislators complain that they don't have the funds to build effective truck safety programs, let alone form special teams to focus on hazardous waste transportation.

Congress has made grants averaging $50,000 available to states to develop their programs. Larger grants averaging $400,000 are available to enforce those programs, so long as states adopt all the federal safety and hazardous materials regulations. But a number of states are reluctant to apply for the larger grants, fearing that if the federal funds are ever cut off, they would not be able to support the projects alone. The Reagan administration has done nothing to diminish this fear. It has frozen funding for the grant program at $14 million dollars for fiscal year 1986, less than half the amount Congress authorized.

Taking baby steps

Improving truck safety would require both state and federal authorities to devote more money and manpower to the task. At the state level, a few models exist, such as the successful Illinois program, that are more effective than those generally in place. The Illinois Legislature launched their program in 1977 after a series of spectacular accidents, including the explosion of propane cars after a train derailment which sent half of Crescent City up in flames. The state now has 75 officers working full time on hazardous materials enforcement and 350 on general safety enforcement. A 70-person staff provides free classes on safe maintenance and operation for carriers who haul hazardous materials regularly. "When we started enforcing the regulations in 1979, eight out of ten trucks were in violation," says Clark Mortensen. "Today we are experiencing 25 percent."

Unfortunately, Illinois remains a sharp contrast to surrounding states which don't have tough rules or enforcement. Those states may find, however, that they become the dumping ground for drivers and companies who can't operate under stricter laws. Mortensen describes one large trucking company that had been fined by Illinois enforcers for using cargo tanks that didn't meet state specifications. Rather than replace the dangerous tanks, the company simply moved them to terminals in neighboring states and brought their newer tanks back to Illinois. Such maneuvering is common, says Mortensen. "Right now they're playing hopscotch with us."

In the last couple of years, Congress has taken a few steps toward increasing the safety of hazardous materials transportation and trucking in general. In 1984, Congress granted the BMCS greater authority to impose civil penalties and higher fines. And if, by 1989, all states have not adopted federal safety and hazardous material regulations, the DOT has the authority to preempt their laws and impose federal regulations. But Congress has shied away from tougher measures that could improve safety relatively quickly. For example, legislators could make federal highway funding contingent on states adopting federal regulations and a specified minimum level of enforcement and penalties. Another important improvement would be to enlarge the BMCS so it could do more than wave a finger at unsafe truckers. Secretary of Transportation Elizabeth Dole has recently announced plans to add 1,000 air controllers and 500 safety inspectors in light of the increasing volume of airline traffic and this year's accidents. This example should prompt similar action in support of the BMCS.

The comparison to the airline industry reveals, however, why movement on truck safety is unlikely on the Hill. Trucking accidents, even those which involve toxic materials, are not as spectacular as airline crashes. To date, a relatively small number of people have died each year as the result of truck accidents, and few public interest groups have put truck safety high on their agendas. At a September Senate hearing on deregulation, only one consumer advocacy group sent a spokesman, despite determined efforts by the subcommittee's staff to recruit more critics. Representative James Florio, a Democrat from New Jersey who chairs the House Subcommittee on Commerce, Transportation and Tourism, confirms the impression that without the public awareness a major calamity would create, Congress is not likely to move on the safety issue. One House staff member familiar with the issue comments: "It's a rotten way to legislate." Because few on the Hill have connected economic deregulation with the need for better enforcement of safety requirements, Congress is failing to take preventive steps before we get a Bhopal on wheels. ■

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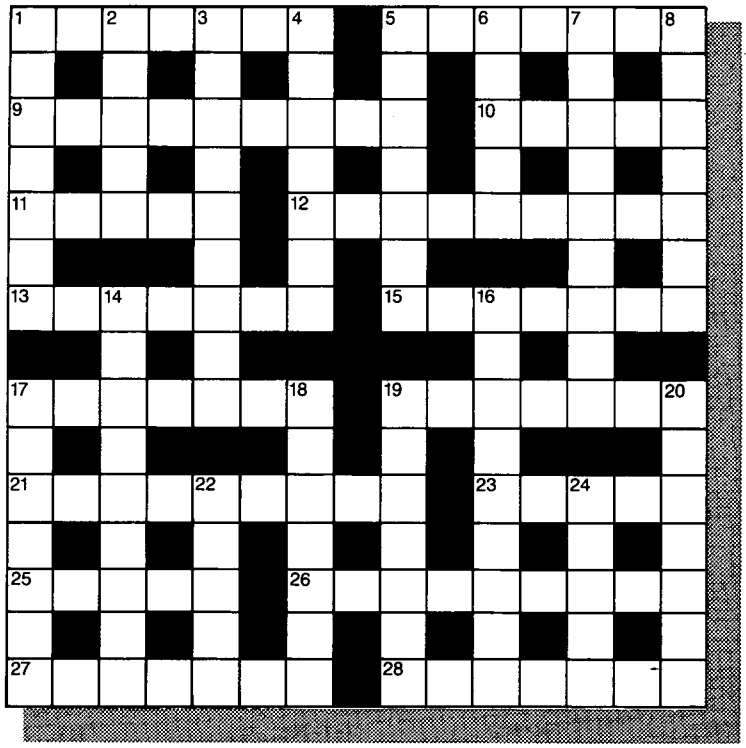
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g., (2, 3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.



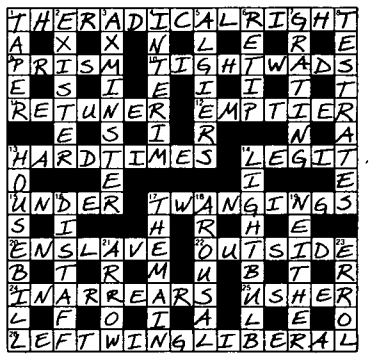
ACROSS

1. Unwelcome at rally or in Cabinet! (7)
5. New home for 1 Across shakes up Daniel R. (7)
9. Air problem managed to pull in a circle. (9)
10. Some in Brazil's capital rely oddly on mineral. (5)
11. Relaxes article in points. (5)
12. Fancy aunt stands before political meeting without affectation. (9)
13. Tender phrased differently. (7)
15. Chow chow. (3, 4)
17. Fabric artfully braced around nothing. (7)
19. Rambles over stones. (7)
21. Doting hog waved farewell. (4, 5)
23. Argentinian native comes back, almost. (5)
25. Oiler sent up the river. (5)
26. Being sworn in made Titian die. (9)
27. Pray for processed cheese after beautiful beginning. (7)
28. Promotes enlistments through skywriting? (5, 2)

DOWN

1. Unfortunate shapes formed around 50. (7)
2. Los Angeles companies briefly mixed drinks. (5)
3. Long state. (9)
4. Sat on top of woven reeding. (7)
5. Dieting craze set something off. (7)
6. Coal at the end of some months;... (5)
7. ...poll of air taken at start of another. (5, 4)
8. Held up and produce egg in middle of act. (7)
14. Comic ones tilled Washington field. (9)
16. Aging nerd discovered pastime. (9)
17. Bridge convention for TR? (3, 4)
18. Spin shingle curiously. (7)
19. Retiring senator with bad asthma around 1:00. (7)
20. Be counted or be missing. (5, 2)
22. Relative manufactured ice in New England. (5)
24. Traces found in patriot assemblies. (5)

Answers to last month's puzzle:



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The 'Big Trade-Off' Debunked: *The Efficiency of a Fair Economy*

BY LESTER C. THUROW

Americans are uncomfortable when it comes to talking about equity or economic fairness. They are willing to help those in need, but they don't like to think about economic justice in a larger context. Americans wish that the issues of economic equity would go away and hope that the market will turn up an acceptable distribution of income. Perhaps because of this strongly held desire, Americans of all income classes tend to believe that the distribution of income and wealth is more equal than it is.

As the income of the middle class has declined, the American distribution of income has become noticeably more unequal. Between 1969 and 1982 the income share going to the bottom 50 percent of all American families has fallen from 23 to 20 percent of the total; the income share going to the next 40 percent has fallen from 48 to 47 percent, while the income share of the top 10 percent of the population has risen from 29 to 33 percent of the total. As officially defined ($10,178 for a family of four in 1983), poverty is now rising rapidly, and about half of the people being added to the poverty rolls are children.

While slow productivity growth, recessions, demography, and trade deficits played a role in these adverse trends, the programs of the Reagan Administration have contributed to the changes. According to the Congressional Budget Office, Reagan programs added 557,000 people to the poverty rolls. The Urban Institute estimates that Reagan programs subtracted $281 from the average income of those in the poorest 20 percent of all families, while adding $598 to the average income of those in the richest 20 percent of all families.

If one looks at the distribution of wealth (net worth), inequalities are larger and growing more rapidly than those of income. While the top 10 percent of the population receives 33 percent of total income, they own 57 percent of total net worth. Almost 20 percent of all American families have zero or negative net worth.

The problem of economic justice is not going to go away as long as black males earn significantly less than white males (58 percent as much in 1983), as long as women earn significantly less than males (64 percent as much in 1983), and as long as the gaps between rich and poor are growing as they now are. Income distribution problems may for a while be superseded by other problems and lie dormant, but they will inevitably reappear. Democracies that profess to believe in political equality live only uneasily with rising economic inequalities.

Historically, it has been the role of the Democratic Party to work for economic justice. This is a role it cannot and should not attempt to jettison. Almost without notice, however, there has been a shift in the perceived strategy for deal-

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Lester C. Thurow is a professor of economics at the Massachusetts Institute of Technology. This article is adapted from The Zero-Sum Solution. *Copyright © 1985 by Lester C. Thurow. Reprinted with permission from Simon & Schuster, Inc.*

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Members of the middle class are willing to make the sacrifices that will be needed to restore U.S. competitiveness if they believe that everyone else will carry their share of the load.

ing with economic injustice. Today the Democratic Party is tagged as the party in favor of welfare—income transfer payments. Such an identification is recent and in some ways not fair. Not so long ago welfare programs were seen by Democrats as a second-best temporary solution to a problem that required a first-best permanent solution.

A lesson from LBJ

In 1964, armed with a brand-new Ph.D. in economics and having just gone to work for the President's Council of Economic Advisers, I was given the task, at what I was told were the direct personal orders of President Johnson, of going through the *Economic Report of the President* and making sure that the words "welfare" and "income transfer payments" never appeared and never were associated with Johnson's Great Society programs. In Johnson's view, the Great Society programs (more education, more manpower training, less discrimination, more jobs) were to help people earn their own incomes. They were not income transfer payments designed to give anyone an income without work. At the time I remember thinking that I had been given a rather silly task. I no longer believe it was.

Looking back at Roosevelt and the New Deal, the same beliefs were firmly held. It was all right to provide relief for those who could not work (the elderly, the handicapped, the sick), and it was all right to give temporary relief to those who had previously been working and who had been thrown out of work (unemployment insurance), but permanent general welfare programs were never part of the New Deal ideology. Instead, jobs were provided. In 1938, 4.3 million people were employed in agencies such as the Works Projects Administration, the Civilian Conservation Corps, and the National Youth Administration. To employ the same fraction of the labor force today, more than 9 million jobs would have to be provided.

If one asks why the Democratic Party shifted from being a party with an emphasis on jobs and an opening up of opportunities for higher earnings to being seen as a party identified with higher welfare payments, there is an interesting story to be told. While one would think that there would be less political resistance to job programs than there would be to welfare programs (and that is true for the general amorphous public), precisely the reverse is true when it comes to special-interest groups. Most of these special-interest groups are producer groups, and they are much more willing to see general tax revenue go for expanded welfare programs than they are to see government actively working to create jobs or working to alter the distribution of earnings. Producer groups pay only part of the higher taxes necessary to finance more welfare payments, but any restructuring of the economy to produce more jobs or a more equal distribution of earnings directly threatens their current position.

As a result, an implicit compromise was worked out during the Nixon Administration. Programs would be expanded to help the poor, but they would be welfare programs and not programs that required any fundamental restructuring of the economy. After correcting for inflation, income transfer payments to persons rose 156 percent in the eight Nixon-Ford years—more than twice as much as they had risen in the eight years of the Kennedy-Johnson Administration. After correcting for inflation, income transfer payments actually fell 9 percent under Carter. Despite these statistical facts of life, the Democrats were tagged as the party in favor of putting people on welfare. Congressional

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Democrats had voted for the increases and Reagan, not being willing to extend the implicit compromise made by Nixon and Ford, made attacks upon a welfare mentality a central theme of his campaigns.

While welfare can be defended economically, it cannot be defended politically. To want to reform the welfare system to make it into a better, more humane system is politically seen, or can easily be made to be seen, as a policy advocated by those who want to put more people on welfare. Politicians placed in that position usually lose. Americans do not want to put people on welfare. Nor should they. The best that can be said for welfare (and it is a lot) is that it is better than having a society full of hungry people. But it is a second-best solution.

Democrats should focus their attention on first-best solutions—a restructuring of the economy to provide more jobs and a more egalitarian distribution of earnings. The time is ripe for such a shift, since the economy needs to be restructured anyway if productivity growth is to be enhanced and international competitiveness restored.

Fortunately, the changes that will be necessary to make the economy more efficient are congruent with what needs to be done to make the economy more equitable. All of our major international competitors have found this to be true. None have slower productivity growth; all (with the possible exception of France) have a much more equal distribution of income. While the ratio of average incomes between the top and bottom decile of incomes is 14 to 1 in the United States, it is only 6 to 1 in West Germany. What can be achieved in Germany can be achieved in the United States.

In an economy with rapidly growing productivity, it is possible to argue that equity questions can be pushed to the back burner. If everyone's income is going up, then equity is being enhanced—at least for those who believe that equity is best measured by looking at absolute incomes or the percentage of the population that cannot afford some minimum standard of living. It isn't possible to avoid equity questions, however, in an economy with low productivity growth, where the relevant question is not "How should the economy's growth division be allocated?" but "From whom should the resources be taken to provide the funds necessary to restore productivity growth?"

When the Reagan administration designed its

Industrial Policy, Not Protectionism

American industry is being beaten up in international competition. Our productivity growth rates are below those of the competition, and American industry faces a very different challenge in the next 30 years than it has in the last 30 years. For the first time in a long time, America faces technologically equal, well-organized competitors backed by foreign industrial policies. If American firms were coping with this challenge as they are now organized and if there was not a faint whiff of the stench of economic failure about the American economy, no one would be talking about more explicit industrial policies.

The United States faces not a product cycle where old products are moving off to low-wage Third World countries, not a service revolution where industry is declining to be replaced by services, but the loss of its economic leadership. It is being challenged for economic leadership by other high-wage industrial countries.

Everyone knows what ought to be done to strengthen and restructure an industry. The real problem is putting together a politically viable package to get the job done. Consider the ingredients of an effective industrial policy for steel. It would start with the realization that some part (low technology, standardized products) of the steel industry both should and will move offshore to low-cost foreign producers in Korea or Brazil. Here the industrial policy problem is to help workers move out of these areas of production and into other good jobs.

Part of the industry is viable in the United States as mini-mills, but problems may exist as to siting and environmental regulations. Here the industrial policy problem is to get such decisions made more rapidly and to get the mills into operation faster.

Part of the industry is in the new high-tech sunrise category of powdered metals, metal ceramics, etc. Here the industrial policy problem is to make sure that the necessary research and development gets done in the United

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1981 tax and expenditure cut package, it claimed that the supply-side response to the tax cuts would be so rapid that no one's income would decline. As predicted by others, it did not work that way. Families with incomes below $40,000 had their incomes reduced; families with incomes above $40,000 had their incomes enhanced. Explicitly the Reagan Administration denied that it was making equity decisions, but in fact it made a very unfair equity decision to load the costs of raising the American savings rate (the announced reason for the tax cut package) on low- and middle-income Americans. Since the American savings rate did not go up in the aftermath of the 1981 tax cut, the tax cut package was inefficient as well as inequitable, but that is a later story. Democrats need to replace such equity decisions with a better understanding of what economic justice is all about.

I believe that all those who argue that democracies cannot impose sacrifices on their citizens for the sake of the common good without the impetus of war are wrong. When I talk to different groups about the structural changes, such as the need for more savings and investment that America will need to make to restore productivity growth, I do not get a negative response. Instead the response goes something like this: "I don't like what I hear. I wish it weren't true. But I can understand that low productivity growth and big balance of payments deficits are not viable in the long run. I would be willing to make some of the sacrifices that will be needed to restore U.S. competitiveness *if* you could convince me that everyone else was fairly sacrificing and carrying his or her share of the load at the same time."

No suckers

Sacrifices don't have to be identical, but they do have to be equivalent if they are to be voluntarily made; and in a democracy they must in some collective sense be voluntarily made. Americans are smart enough to understand that different groups will be asked to shoulder different burdens, but they want to be fairly treated when those sacrifices are assigned and assured that every other group will be carrying its proportionate share of the total burden. A sharing of burdens where the top 10 percent wins and the bottom 90 percent loses is not acceptable.

If a sense of economic justice can be generated, it just might be possible to make the large number

States first and to insure that the industry has access to the funds that a new high-tech, capital-intensive industry would need.

Part of the traditional industry may be viable if two or three next-generation, big, integrated steel mills were built at coastal locations. Here the industrial policy problem is partly one of research and development, partly one of financing, and partly one of relative wage and work rules. Can those labor and social factors that must be changed to make new integrated steel mills profitable be changed?

In steel, America has had an industrial policy of protection since 1968, but the industry is competitively weaker today than it was then. To trigger pricing (the previously existing system of protection, whereby tariffs and quotas are triggered if import prices fall below some set level), the Reagan Administration has added separate tariffs and quotas for specialty steel producers. American buyers of steel are now at a substantial handicap vis-a-vis foreign competitors who buy steel for hundreds of dollars less per ton. It is only a matter of time until the buyers of steel seek protection to offset the higher costs imposed upon them by the American government.

No formal industrial policy could be worse than the informal industrial policy that America has had in the steel industry. The same political pressures that now exist would exist with formal industrial policies, but those operating the explicit industrial policies would have to explain why they had undertaken policies that led to an American industrial loser. No one has to explain the failures of the current implicit industrial policies. No industrial policy board would have recommended protection without some quid pro quos on the part of the industry, its unions, its banks, and its suppliers. With protection and nothing else, it is simply too easy to slip into a comfortable position as a protected second- and third-class producer of steel, and that is exactly what the United States has done.

The first step in an industrial policy for steel would be to remove all protection and tell the industry that it would not be reimposed until they had come up with a concrete plan to remake their industry into a world-class competitive industry. I would be willing to bet that with such a spur the necessary planning could be done in less than a month. The problem

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of changes that will be necessary to restore U.S. competitiveness, even though each of the individual changes, evaluated one at a time, would be called politically impossible. What is needed first is a sense of crisis—the U.S. faces a competitive fight for its economic life. Second, public education, in the best sense of that word, is needed to convince most Americans that the changes are necessary; and third, leadership is necessary to fashion a package of sacrifices where all end up feeling that they are carrying their fair share of the necessary burdens and that no one is escaping from his fair share.

In a democracy, fairness is doubly important. It helps create the common bonds that hold us together politically, but it is also necessary if markets are to be allowed to operate. Whatever the efficiency of free markets, in a democracy the majority or even substantial minorities can effectively vote to stop the market from working freely if they feel that the market is treating them "unfairly."

Most often anyone who is a market loser, regardless of his previous religious attachment to the virtues of free markets, feels that he or she is being unfairly treated. Industries threatened by international competition, for example, invariably run to Washington for protection—right-wing Republican businessmen hand-in-hand with left-wing Democratic unions (see "Industrial Policy, Not Protectionism," p. 49). Many groups have gotten such protection—dairy products, autos, steel, textiles, processed meat, motorcycles; many other groups want such protection—machine tools, semiconductor chip manufacturers. Demands for protection are not peculiar; they are the rule. Only market winners want to let the market work unfettered by government intervention.

Standards of fairness become central when an economy needs major restructuring if it is to remain successful. Any restructuring requires sacrifices on the part of someone, and in most cases such sacrifices cannot simply be ordered. Even in wartime, sacrifices cannot be commanded but have to be volunteered in a cooperative effort for victory.

To address major problems that require temporary sacrifices and changes in ways of life, Americans must feel (1) that they have something to lose if the problems confronting society are not solved, (2) that it is not possible to solve those problems unless everyone is willing to be mobilized, and (3) that such a mobilization can only occur if all Americans feel that they are being

is not "What should the American steel industry do?" but "Doing it is too painful!"

The solution is to put together a package of changes that distributes the inevitable losses, yet gives each of the major participants a chance to share in the gains that will come from a successful restructuring. In any such negotiations, it is important for government to look out for the interests of the consumers, to contribute some of the ingredients that cannot be contributed by the private sectors (a short period of protection, part of the funds needed for research and development), and to serve as a guarantor that each of the parties will live up to its individual commitments.

The United States needs an industrial restructuring board that would be authorized to participate in such conversations. Without it, industries that could be partially saved will not be saved.

While pressures for protection will not disappear with the introduction of industrial policies, the ability to resist those pressures should be strengthened. First, the government would not even be willing to talk about protection for an industry until the industry came up with a plan for remaking itself into a world-class competitor. Second, protection would have to be justified in the context of that plan and would not be adopted unless the industry could prove that it needed relief and was doing its share to become competitive in terms of new investments or wage and work rule concessions. Third, as mentioned above, any protection would yield the U.S. taxpayer some equity participation.

Since explicit industrial policies mean that government has remedies other than protection that it can use to aid an industry (such as R&D funding), it is easier for government to make protection one of the last, as opposed to one of the first, options when requests for aid are being considered. In fact, the dangers are quite the opposite to those hypothesized. Without explicit industrial policies, America is drifting very rapidly into protectionism. The public demands that something be done as American industries seemingly go off the cliff one after another. Not having anything else to do, protection is adopted as the only remedy in too many industries.

—L.C.T.

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fairly treated in terms of the sacrifices asked.

In the case of low productivity growth and diminishing international competitiveness, America faces just such a wartime situation. Everyone, even the most favored group, has something significant to lose. Consider adult white males—the most favored group in the American labor market. The hammering that American industry is taking in world markets is being administered precisely to the industries where they have traditionally been employed. Males accounted for 65 percent of the more than 5 million people who had been working for more than three years but lost their jobs between January 1979 and January 1984. Three million of these job losses could be attributed to America's trade deficit. Not so long ago (1981), adult men had unemployment rates significantly below those of adult women. Today the reverse is true. Of the five million people who lost their jobs, 40 percent have not found new jobs. Of those who have found new full-time jobs, 45 percent are earning significantly less than before. Another 7 percent have suffered large income losses, since they have only been able to find part-time work.

If the only problem facing America were discrimination and low earnings for blacks, Hispanics, and women, white males could opt out. They cannot opt out from the problems of productivity and competitiveness, however, since they are losing their jobs at an even faster pace than the groups that have traditionally been at the bottom of the labor force. Successful foreign competition won't drive Americans from their bad jobs. Foreigners don't want those jobs. The competitive pressures will come precisely in those jobs Americans want to have.

Unconventional wisdom

If one examines what must be done to bring each of the major inputs going into the American economy up to world-class standards, it is clear that Americans are going to have to rediscover teamwork. No one, however, can build a successful economic team if the individual players on the team feel unfairly treated.

Conventionally, equity and efficiency are seen as mutually conflicting goals—the "big trade-off," in the words of the late Arthur Okun. In economic theory, the free market in its search for 100 percent efficiency generates a particular precise distribution of income. Technically, every worker or unit of capital used in production is paid in accordance with individual (marginal) productivity. To interfere with the market distribution of income in any attempt to generate greater equity produces inefficiency. Any factor paid less than its productivity warrants works less or saves less than it otherwise would, so that total output to be divided falls. Efficiency suffers. The greater the interventions to promote equity, the less efficiently income is generated. As a result, there is only a limited amount of equity that any society can afford to buy—or so the argument goes. Conservatives argue that American economic problems spring from too much equity. More efficiency demands less equity.

This conventional view is incorrect. All of our major industrial competitors, with the possible exception of France, distribute income both before and after tax more equally than the United States. The world is full of empirical evidence that efficiency does not require less equity. Quite the contrary, to obtain the efficiency the United States needs, it is going to have to promote equity.

Equity is often incorrectly used as a synonym for equality. Equity does not arise when everyone is treated equally regardless of circumstances or contribution, but when everyone is treated "fairly." What any population is willing to regard as fair depends upon history, institutions, and values. It also changes over time.

With the onset of World War II, for example, social standards of fairness changed. Because many Americans were risking their lives in combat, those at home were convinced that civilian earnings were unfair relative to the sacrifices on the front lines. As a result, wage and price controls were deliberately used during World War II to narrow the distribution of earnings. The sacrifices of those directly fighting the war required more fairness in the domestic economy, and those indirectly fighting the war willingly gave up their unfair wage differentials.

According to conventional economic wisdom such efforts to promote fairness should have led to less efficient military production. But they didn't. The American economy enjoyed enormous gains in both output and productivity—up 22 percent from 1940 to 1945. The perception of fairness created a feeling of teamwork and esprit de corps that contributed to efficiency and output rather than subtracting from it. Any major initiatives to restore American competitiveness will require the same feelings.

Present peacetime economic problems are not all that different from those experienced in World War II. Americans must mobilize to increase the quantity and quality of the products they pro-

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duce, and this requires a widely shared perception of fairness. Just as an army can move only as fast as its slowest unit, so the economy can only be as good as its poorest motivated, least cooperative component. As with an army, the economic problem is teamwork—obtaining sacrifices from everyone, getting everyone to march faster and work together better.

Similarly, real efficiency does not result from the simple enforcement of rules and regulations on a sullen work force. Everyone is familiar with instances where workers do not strike but withdraw their voluntary cooperation and "work to rule." In the Boston subway system, for example, the rules say that a train cannot leave the train yards without its window wipers in working order. Normally, the rule is ignored on sunny days, but when working to rule, it is not. Within a few weeks of working to rule a few years ago, the whole subway system essentially ground to a halt for a lack of operational equipment. A society or a firm that depends solely upon the enforcement of rules and regulations is an inefficient society or firm. All societies need voluntary cooperation to be efficient.

Hi-ho, Silver!

Americans like to view themselves as economic descendants of the Lone Ranger. It was "rugged individualism" that made the American economy great. Or was it?

Social myths are important. True or false, they are part of what we are. They color how we see ourselves. More important, they create a set of blinders so we see only part of our history and only part of the vista before us. As a result, we are apt to act without a complete view of who we are and where we are going. Not surprisingly, those who act in partial blindness are apt to make blind mistakes.

Consider *Fortune* magazine's Business Hall of Fame. What rugged individuals hang on the walls? Henry Ford. What did he invent? The assembly line—a form of social organization where production workers worked together in more efficient ways than they had before. Alfred Sloan. What did he invent? The committee system—a form of social organization where managers and white-collar workers learned to work together more efficiently in planning company operations.

Ford and Sloan were bright individuals but their genius was not found in Lone Ranger solo activities. Their genius was found in their ability to get other individuals to work together in more productive ways.

Since economies are almost by definition social organizations, it is not surprising that economic genius almost always involves the ability to organize society better; but any society that insists on describing its own history as if it were a product of rugged individuals and nothing else is apt to underestimate the importance of social organization and focus too little of its attention on improving social organization. And if there has ever been a society that has fallen into this trap, it is America.

The Reagan Administration and much of the economics profession believe that social institutions and structural arrangements either don't matter or take care of themselves. "Get the government out of the economy and off the backs of the people." Underlying this political battle cry is the belief that competition forces the best possible institutional arrangements to the fore. "If it wasn't efficient it wouldn't exist. If it does exist, it must be efficient. If there was a better way to do it, that better way would automatically drive the inferior way now in use out of existence." Therefore, as the syllogism goes, societies don't have to make deliberate social changes in their institutions and the ways in which they organize themselves. Instead of trying to improve the ways that society is organized so that it works better, as President Roosevelt did when the American economy failed to recover from the Great Depression by itself, Americans have merely to stand aside and "let free enterprise do its thing."

But the truth is that societies that win economically are the ones that pay attention to improving their social organization. If America wants to be a market winner, it must organize itself to win.

Team USA

In international trade, precisely the opposite is happening. The rest of the world is organizing itself to make America a loser. Our bilateral balance of trade deficit with Japan is so large as to be embarrassing. Polite people simply don't talk about the actual numbers in public. Whatever one thinks about the causes of Japanese success, it cannot be attributed to rugged individualism. If there was ever a culture that deemphasized rugged individualism and emphasized social organization, it is the Japanese.

Industrial societies need brilliant individuals, but they succeed or fail depending upon the average quality of each of the components go-

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ing into the economy, and a high average almost always requires social organization. A society where everyone can read and write beats a society where most are illiterates but a few are geniuses. This is why our forefathers invented mass public education and required that everyone be educated. They understood that they could not be successful unless all of their neighbors' children were well educated and capable of being productive members of the work force.

In the late nineteenth century and the early twentieth century, when the United States was overtaking Europe, America had mass education on its side while Europe had elite education on its side. Economically, mass education beat elite education. Today the reverse is true. Americans win more than their fair share of Nobel prizes, but the average Swedish high school graduate knows twice as much math as the average American high school graduate. Based on America's own history, it should come as no surprise that America is simultaneously dominating in elite education while falling behind in mass technology. In the past it happened to Europe; today it is happening to America. To improve American education, and it will have to be improved if we are to succeed economically, will take a lot of social organization and very little rugged individualism.

The interesting thing about America's love affair with the Lone Ranger myth is not that the Lone Ranger did not in fact exist. It is that he could not have existed. The American West was not settled by Lone Rangers. Precisely the opposite, it was settled by wagon trains and community barn-raisings—social organization. Individuals alone on the high plains of Montana in 1840 or 1870 weren't successful—they were dead. What was in fact a social triumph is mythologically described as if it were an individual triumph.

Evidence for the importance of teamwork is all around us. Each of us knows that her own individual wages will be higher if she plays on a successful economic team (IBM) than if she plays on an unsuccessful team (Braniff Airways).

Firms that can inculcate a feeling of teamwork do better than those that cannot. Such individual experiences are confirmed statistically in the learning or experience curves used in operations research. Typically, in the first two or three years after a new plant opens, productivity rises 200 to 300 percent as workers learn how to work together as a team. Yet Americans often deny the obvious when describing what they do.

The poor American productivity performances come not so much from less "hard" productivity (inferior technology) but from less "soft" productivity (poorer motivation, less cooperation, adversarial relations rather than teamwork). Soft productivity is an untapped productivity vein of gold. America must tap this vein to create a winning economic team—but this means doing the things that are necessary to generate motivation, cooperation, and teamwork.

Consider for a moment the fact that Japanese businessmen would regard as the most devastating fact they had ever heard about the American economy: America's labor force turns over at the rate of 4 percent per month. Within any one year the average American company loses about half its total labor force—about half of those quit and half are fired. If one ignores the importance of teamwork, high turnover represents high efficiency. From the perspective of conventional economic theory, unneeded labor is laid off and reallocated to more efficient uses while workers with better income opportunities are quitting to engage in more productive activities. In this reallocation process labor will be used more efficiently, so that the total output increases. High turnover simply reflects an efficient labor market allocating workers to the jobs where they are most needed.

But what worker or manager will sacrifice to make a company successful ten years from now if he or she knows that there is a high probability that they will not be around in ten years? Research and development, investment in production facilities, and marketing often take ten years or more for a major new product, but no one is going to work to ensure success ten years from now if he doesn't expect to be around to harvest the fruit. Yet no one has fruit unless someone plants fruit trees.

Business firms are the social and institutional embodiment of economic teams. They are not simply statistical units where the more efficient automatically drive the less efficient out of business. Efficient firms are not a collection of elements but an organic whole. Individual members agree to make short-run personal sacrifices for the long-run common good. To do this, individuals need to know that they will be on the team in the long run and that the team is being fairly run. Without both of these elements, a willingness to make sacrifices for the future simply isn't there—on the playing fields, in the firm, or in the society. Fair treatment is central to a well-motivated, cooperative, high-quality economic team. Equity is the essence of efficiency. ■

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TIDBITS AND OUTRAGES

IN A FURTHER JUDGMENT, THE CONGRESS HAS PROPOSED TO BAN THE COLOR RED FROM ANY PAINTING OR SCULPTURE.

Does the ideological caution of some people by National Endowment of the Arts grant holders, Rep. Dick Armey (R-TX) wondered. "This is not a matter of censorship, this is a matter of judgment. . . He who pays the bill sets the standards."

IT'S SO HARD TO GET GOOD HELP THESE DAYS

One week after being hired as an assistant attorney general to prosecute drunken driving cases in West Virginia, Charles Reed Davis was arrested for allegedly driving under the influence of alcohol. He resigned the next morning.

◆

AND CO-CHAIRING THE TASK FORCE ON WHITE COLLAR CRIME: MARC RICH AND ROBERT VESCO

In the small West Virginia town of Williamson, attorney Truman Chafin has filed "at least 15 suits against physicians. . . [and] has singlehandedly devastated the availability of medical care," according to a report by a former state medical association president. When he's not in court winning awards of close to a million dollars each, Chafin, a state senator, chairs a legislative committee studying whether to limit compensation of medical victims and their lawyers.

●

AND ON THE SEVENTH DAY THEY COVERED THE TALMUD

The Brookings Institution recently held a six-day conference entitled "Understanding Federal Government Operations".

◆

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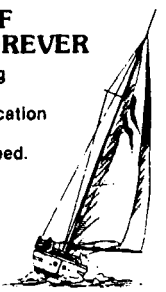

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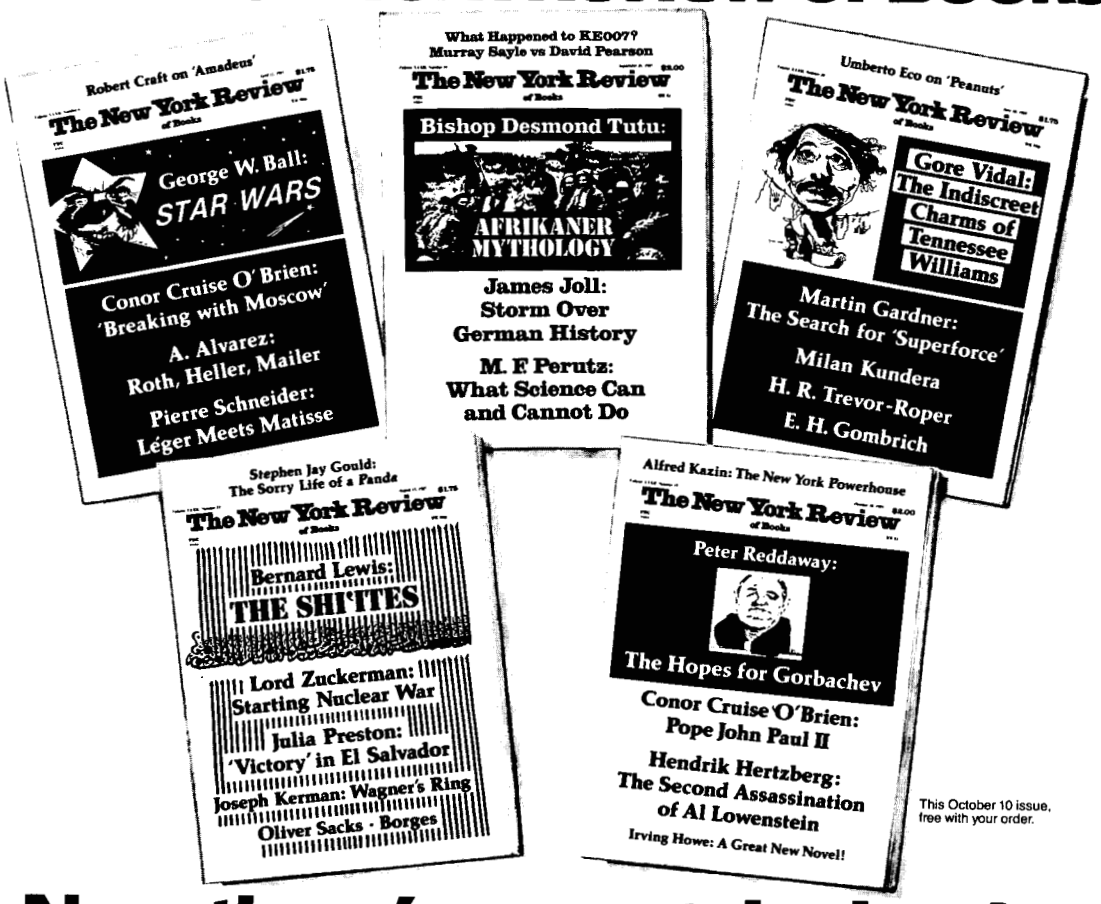

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POLITICAL BOOKNOTES

Ronnie and Nancy: A Very Special Love Story. Bill Adler. *Crown Publishers, $14.95.* Let us accept, as I do, that Ronnie and Nancy really do love each other and that their marriage is a good one. Still, are they not human? That is to say, do they not sometimes quarrel, sometimes see things differently, sometimes neglect their children, sometimes sleep on opposite sides of the bed?

No, no, no, says Bill Adler. Their love is all kissy poo taffy candy goo.

Jimmy Carter once told me that in late 1966, despondent over the loss of a political race, he struggled to hold his family together. His and Rosalynn's marriage was going through some tough times. That's the way it goes with human beings. The Carters stayed together, and I have never doubted their love.

The rap on Ronnie and Nancy is that they are plastic characters living in a Hollywood screenplay. Adler makes every effort, unwittingly I trust, to buttress that view. "The Ronald Reagan campaign of 1980," he tells us, "was run and won on the strength of the love and affection between the candidate and his wife." So much for all the sophisticated analysis of the Carter-Reagan race—take that, Germond and Witcover!

The course of true love never runs smoothly. It is the examination of this winding stream and how two people persevere despite all their difficulties that makes for an interesting story. The Reagans may have one to tell. But it's not to be found in this sappy book.

—*Sam A. Donaldson*

Education's Smoking Gun: How Teacher Colleges Have Destroyed Education in America. Reginald G. Damerell, *Freundlich Books, $17.95.* If you judge the man by his prose, Reginald Damerell is a crank. He raves and denounces so frequently and insistently that it is hard to believe he's on an even keel. Unfortunately, this manic streak intrudes so much as to blight the book. It's a shame because so much of the substance of his criticisms rings painfully true.

The subject is the theory and teaching of teaching, and Damerell minces few words: Education degrees "are empty credentials...The education field is devoid of intellectual content, has no body of knowledge of its own, and acts as if bodies of knowledge do not exist in other university departments." This denunciation is spoken with some authority; Damerell spent twelve years in the belly of the beast as an associate professor of education at the University of Massachusetts. Damerell's specialty was in educational media, and his account of what passes for scholarship in that field is disturbing to say the least. One student, Mary, is nearly illiterate and can't even operate simple audiovisual equipment; she receives a master's by studiously littering her transcript with independent studies, "practicums," and weekend courses. Comedian Bill Cosby, no less, manages to obtain a Ph.D. in a similarly dubious manner. The title of his dissertation, *The Integration of the Visual Media Via 'Fat Albert and the Cosby Kids,' in the Elementary School Curriculum as a Teaching Aid and Vehicle to Increased Learning,* suggests something about the rigor of that academic program. Cosby's thesis defense, incidentally, consisted largely of a showing of several episodes of the cartoon show.

Damerell is especially critical of his own "field," which he doesn't consider a discipline at all. One of his best chapters recounts the rise of "visual literacy" as a subject of academic inquiry which has, in its short life, spawned such publications as *A Primer of Visual Literacy* and occasioned elaborate conferences in various plush hotels. As Damerell points out, the phrase itself is meaningless and was coined by a marketing executive at Kodak, a firm whose interest in audiovisual studies is not exactly scholarly.

Damerell, though, has too much bile for his own good, and his hyperbole undercuts his own case. He also digresses wildly: nearly a third of the book is devoted to discussions of the internal politics of the New York City school system, the "right" way to teach reading to children, and the harm done to black students through lax standards. Thomas Sowell, whom Damerell cites frequently, may have some good insights into the sociology of the black community, but their relevance to a study of education schools is tenuous at best.

Damerell could have used a good editor to steer him away from sermonizing and back toward his own experience. Had he kept his course, he might have made more credible the case he set out to make. As it stands, *Education's Smoking Gun* will be all too easily dismissed.

—*Philip Keisling*

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Secret Contenders: The Myth of Cold War Counterintelligence. Melvin Beck. *Sheridan Square Publications, $7.95.* If the tawdry, nickel and dime affairs of the Navy spies haven't done enough to demolish the James Bond image of spying, perhaps Melvin Beck's book will give it the *coup de grace.* Beck, a counterintelligence agent with the CIA for 27 years, has chronicled his experiences as a case officer in Cuba and Mexico in the early sixties, and the picture is not glamorous.

Secret Contenders doesn't aim at blowing the cover off the agency's dealings in the manner of Philip Agee. Instead, Beck gives an account of his growing disenchantment with the myopic anti-communism that pervades the CIA, and he describes at length the thick tangle of bureaucracy that obstructs all agency efforts. In numerous stories which sound like they've been lifted from *Get Smart* scripts, Beck depicts a CIA more obsessed with secrecy and "proper procedure" than with with efficient gathering of intelligence.

Beck's conclusions are not especially novel, but his anecdotes make for good reading. In one case a psychiatrist is flown to Mexico City to test the loyalty of a double agent by inducing a state of instant hypnosis. Clouseau himself could not have failed more spectacularly. In another, CIA agents go to great trouble to bug the apartment of a KGB agent only to be treated to a tape recording of small talk and sex. These, Beck says, are "operations for operations' sake"; they're done because the spooks think that's what spooks should do, whether they're useful or not.

Even putting aside such follies, the CIA doesn't make life easy for itself. By obsessively compartmentalizing activities and information, the agency exacerbates the turf wars which naturally arise in large organizations. If this is the price of secrecy, it may sometimes be unaffordable. A case officer on the Cuba detail during the Bay of Pigs, Beck claims to have had data indicating Cuban and Russian foreknowledge of the invasion. But, he says, he couldn't alert the appropriate people because they were in a separate division.

Intelligence work, as Beck doesn't hesitate to say, is a lot of drudgery most of the time. Mountains of paper have to be digested, and endless hours are spent writing reports. And, as Beck shows, much of this elaborate ritual does little more than keep the perception of the menacing adversary potent for the folks at home.

—Mark Schapiro

Amway: The Cult of Free Enterprise. Steve Butterfield, *South End Press, $8.50.* Recruits are given special monikers within the organization and are promised salvation. Soon they find themselves sitting for 12 hours at a stretch at mass rallies, chanting thanks to the Leader for "teaching us to be free." Contacts with parents and friends who aren't in the circle of the elect are cut off. Lectures, speeches, tapes and books indoctrinate them and incite them to fight for the Free World against Communism. They do not second-guess their superiors. They work long hours for little or no pay for the leaders who "love" them.

Moonies? Close. These are the shock troops of Amway.

Steve Butterfield, a Vermont English professor and onetime distributor for the mammoth corporation, tells how the peddling of laundry soap and breath freshener has been turned into a religious quest for half a million Americans.

His tale is a chilling one. Amway somehow devised a method for brainwashing its eager legions into sacrificing their lives to line the company's pocket, all the while convincing them that they're crusading for something much different.

Take the work ethic, for example. Once recruits are drawn into Amway, they enlist their own distributors through a pyramid scheme, much like a chain letter. You get rich by convincing those below you to give you money in the belief that by doing so they can get rich. So to make enough money through Amway to be able to quit your regular job, you have to dupe 100 others into becoming independent distributors on their own and buying overpriced Amway motivational tapes and books every week to "learn" how to earn a million dollars. While ostensibly pushing the work ethic, Amway lecturers teach you that the aim of the job is to retire and take ocean cruises while others do your work for you.

The mind control is fearsome. Amway and the right-wing preachers and celebrities who address its seminars tell you that you're working to preserve family values while warning you away from friends and relatives who reject your sales pitch. Such losers, they say, do not deserve to get rich.

The company maintains motivation through intimidation. Superiors visit your house unannounced to ensure that your family uses only Amway products. They check to see that you've cut out and taped to your refrigerator magazine photos of the items you dream of buying when your Amway fortune is made—Cadillacs and mobile homes are the icons of this gospel of wealth. Distributors who question the company's methods are cut off, and all "negative" books are trimmed from the Amway reading list. Mix in copious quantities of the rhetoric of free enterprise and competitive business and you have perhaps the grossest of caricatures of the American Way.

But Amway didn't invent this extraordinary materialism. And it certainly is not the first to create such a herd mentality. Butterfield's book, like exposes of the Moonies and other cults, serves a valuable purpose in reminding us of how those instincts can be manipulated. Exposers of cults frequently aim to ignite crusades against individual cults. A more beneficial, though unlikely, effect would be to ignite a revolt against the misplaced values which provide the ready-made sales force for an Amway in the first place.

—Paul Bass

Germany Today. Walter Laquer. *Little, Brown, $16.95.* A Bonn correspondent for an American publication once told me what frustrated him about covering Ger-

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many. "Unless you write that the Nazis are coming back or the Russians are marching in," he said as he packed his suitcase for a weekend in Paris, "the editors aren't interested."

In *Germany Today*, Walter Laquer analyzes the country's rarely discussed middle class, as well as some of Germany's major problems: the nation's petrified intelligentsia; its reemerging, troubled patriotism; its longstanding apocalyptic qualms. A German heritage aided Mr. Laquer's dive into the clouded German pond and helped him to collect some clear pictures of its murky bottom. His conclusions, though muted, indicate that Germany will remain a strong, stable member of the Western alliance for the next 20 years.

"Almost every year since the end of the Second World War some over-anxious outside observers have announced the impending resurgence of neo-Nazism, or some such calamity," writes Laquer. "But the 'Boys from Brazil' have not returned to power in Bonn, the fears were unfounded, and this specter should have been exorcized."

Not all of this "personal report" is rosy. Laquer shows how misguided educational reform and an overpoliticized, self-conscious youth are producing a nation with too few leaders. "Goethe," he notes, "had written his *Werther*, as well as many poems, and Schiller had published *Die Rauber*, well before they were twenty-five...with all the mitigating circumstances it is still remarkable that in an age of youth revolutions with so much creative energy set free it is quite difficult to think of major cultural or scientific achievements by young Germans under the age of, say, thirty-five."

Germany Today offers a cogent account of the ideological backflip that produced West Germany's current *Bildungskatastrophe*, or catastrophe of education. German ideas about learning have influenced education throughout the world, but over the past 20 years German university reforms aimed at democratization have converted the likes of Heidelberg and Gottingen into the equivalents of some of our underfunded city universities. Top-heavy university bureaucracies and too much undirected "nonauthoritarian" discussion were chief causes of the problem.

Like most other reports arriving from Germany, this one describes a youth pessimistic about its future. A technology student tells the author: "My friends and I firmly believe the end is near." But Laquer also records the humor inherent in the intense interest in the now 40-year-old German Question. "Young Germans," he notes, are "probably the most investigated group of people in the world. There are reliable data about whether they suffer headaches more frequently in autumn than in spring, whether they prefer to take their holidays alone or together, what they think of Luther, the pill, and their mother-in-law, when they drank water from the tap most recently."

For all its strengths, *Germany Today* is too carefully balanced, too cautious in its conclusions about Germany's future. Given Laquer's stature as a scholar of German history and culture, his opinions, as well as his descriptions, would be valuable in helping readers understand what is probably the most important country in Europe.

—*Amity Shlaes*

Iran Under the Ayatollahs. Dilip Hiro. *Routledge & Kegan Paul, $39.95.* For most Americans, following Iran the last few years has been like whale watching. Every so often the mysterious form breaks the surface with a spectacular leap, makes a huge splash, and then disappears into the deep again. The overthrow of the Shah, the capture of the U.S. embassy, the war with Iraq, the terrorist attacks by Iranian allies in Lebanon—in each instance, Iran captured our attention, and then we forgot about it, until the next leap. But what has been going on beneath the surface?

Iran Under the Ayatollahs is a detailed account of events inside Iran since the revolution. Dilip Hiro is an Indian-born, Western-trained

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journalist who does not have the jaundiced view of Iran that colors so much reporting on that country. He provides an exhaustive portrayal of the turmoil in Iran since 1979 and places into context those moments when U.S. interests became entangled. Hiro details the power struggles within and among the groups that overthrew the Shah, demonstrating how the taking of the U.S. embassy was part of the internal Iranian conflict. Hiro also argues convincingly that Iraq's invasion, meant to destroy Khomeini's regime, may in fact have saved it.

Hiro describes Iran as thoroughly transformed by the Islamic revolution. Under the Shah, the Westernized aristocracy and upper classes enjoyed all the power. Khomeini's rise has served the interests of the lower-middle and working classes, from which most members of the ruling clergy are drawn. The continuing popularity of the Khomeini regime, which so puzzles Westerners, is rooted in this empowerment of Iran's less wealthy citizens. Khomeini has also succeeded by giving Iran a political ideology true to its own history; he has made his people feel like an independent nation. Thus, no matter who succeeds Khomeini, Islam and the clergy will remain central to its government. For similar reasons, Hiro argues that the nationalist character of the revolution makes it difficult to export. Islamic revolutionary movements in other Middle Eastern countries, most of which are Sunni, do not look to Tehran for leadership.

Iran Under the Ayatollahs illuminates a country few Americans have bothered to learn about, despite its powerful effect on our own interests.

—*Gordon Rayfield*

Competent Counsel: Working with Lawyers. Denise Shekerjian. *Dodd Mead, $15.95*. Nobody likes lawers. Lawyers don't like each other. The Chief Justice decries rampant incompetence, while the profession seems to return the compliment. Lawyers are avaricious and corrupt. They are arrogant, pedantic, and boring, and there are too damned many of them.

The legal profession has undoubtedly brought much of this on itself. Part of this animosity, however, is probably inherent in the relationship between lawyer and client. People go to lawyers when they are in trouble, or are contemplating a risk, or are mad enough to sue or have been sued. The lawyer can be a complex and contradictory ally for people *in extremis*. Like the Oedipal father, the lawyer may be powerful, but his sword can be turned back on the client at any time.

Denise Shekerjian's *Competent Counsel* is a handbook for dealing with these ambivalent allies. Although a lawyer herself, she, like most lawyers, is skeptical of, if not downright hostile to her peers. The book simply and directly explains how to decide whether a lawyer is necessary, how to find a lawyer, how to comparison shop and negotiate, how to haggle over bills, and how to dismiss, sue, or discipline your lawyer should things go badly.

Competent Counsel's utility for the average individual consumer of legal services is diminished by its excessive focus on whom Shekerjian terms "Mr. Mighty from Ivy League U" and his native habitat, the large law firm. She recites the litany against blue-chip firms: the opulent offices, the overstaffing of cases, the gold-plated summer programs, the staggering bills. These charges are not without merit, but they seem irrelevant to the purpose of her work.

Big firm legal services are marketed to large corporate entities and a few wealthy individuals. Armed with ample bargaining power and a general counsel's office, often staffed with alumni of these firms, Fortune 500 clients don't need Shekerjian's practical guide. The market for which her book is useful—individuals with smaller problems—employs different types of lawyers. Her book would have profited from focus on these individuals, the types of services they require, and the particular problems presented by lawyers who work in these areas. For an individual charged with a crime or seeking a divorce, a lawyer can cause far more harm than an expense account dinner at Lutece.

—*Eric Lewis*

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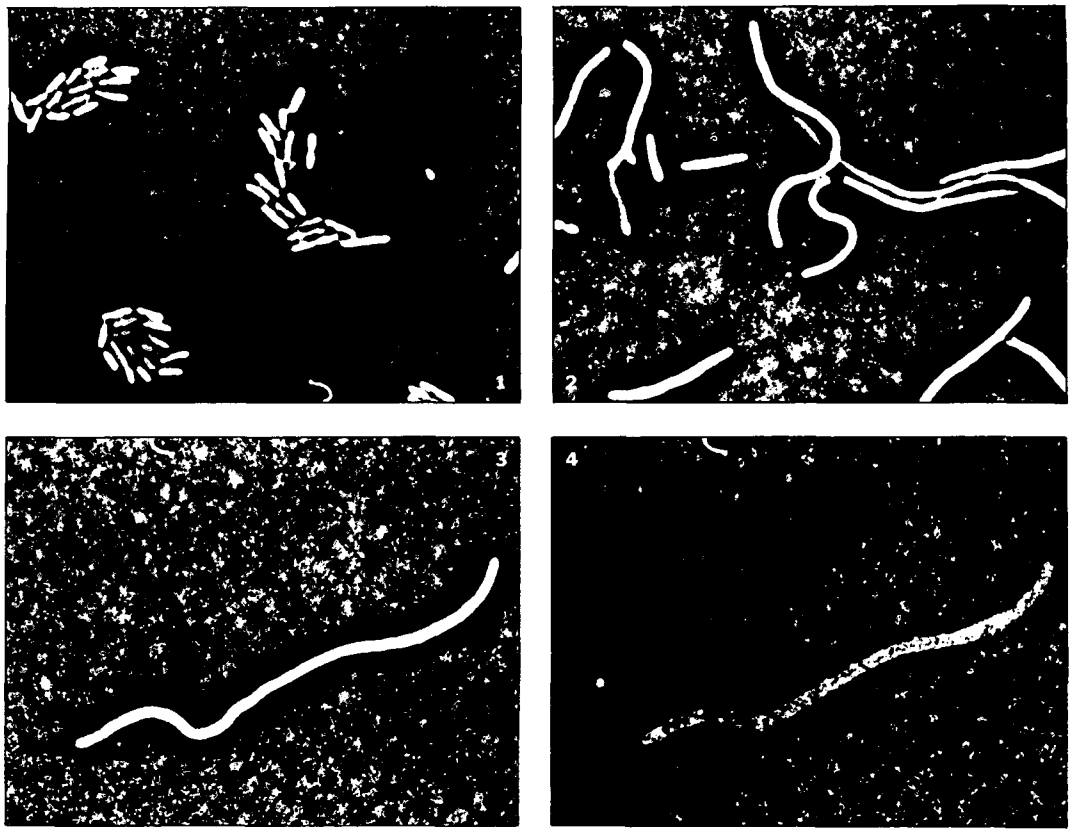

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